IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

TOT POWER CONTROL, S.L.	
Plaintiff,	C.A. No. 21-1302-MN
v. APPLE INC.	PUBLIC VERSION OF D.I. 334 FILED: JANUARY 6, 2025
Defendant.	

DEFENDANT'S MOTION TO STRIKE UNTIMELY EXPERT OPINIONS OF LAWRENCE E. LARSON AND MARK CHANDLER The Court should strike TOT's experts' new and previously undisclosed infringement and damages theories, presented for the first time in their reply expert reports. These theories were never previously disclosed in TOT's opening reports, contentions, or written discovery responses. Specifically, Apple moves to strike Dr. Larson's new opinions regarding: (1) purported infringement under the doctrine of equivalents ("DOE"), when TOT previously withdrew his DOE opinions as untimely; (2) purported infringement relating to alleged performance of method claims; and (3) purported infringement during the transition to 4G and after 3G networks shut down in 2022. Apple also moves to strike Mr. Chandler's new damages opinions regarding: (4) a "reasonable" royalty of over the royalty he disclosed in his opening report.

TOT's belated disclosures of new infringement and damages theories unfairly prejudices Apple. The *Pennypack* factors favor striking these four new opinions TOT improperly saved for its experts' reply reports. *See Meyers v. Pennypack Woods Home Ownership Ass'n*, 559 F.2d 894, 904-05 (3d Cir. 1977) (describing factors for excluding relevant evidence). By saving new opinions for reply reports: (1) TOT has denied Apple the opportunity to take relevant fact discovery and to serve responsive expert reports; (2) this prejudice cannot be cured given that the parties have already filed summary judgment motions and are preparing for trial; (3) the trial would be disrupted by permitting TOT's experts to rely on and testify about new theories that Apple has had no opportunity to explore during fact discovery or to rebut during expert discovery; and (4) the information TOT withheld until its reply reports is not critical or else TOT would have included it in opening reports. *See also Finjan, Inc. v. Rapid7, Inc.*, No. 18-1519-MN, 2020 WL 5798545, at *3-4 (D. Del. Sep. 29, 2020) (striking untimely opinions that left the movant with "two bad options: either scramble to have an expert respond . . . or offer no response and risk not preserving an opinion for trial if the [] Motion to Strike [is] denied.").

I. The Court Should Strike Dr. Larson's New DOE Infringement Theory.

In paragraphs 28-29, 36-38, 83, 91-93, 120, and 135 of his Reply report, Dr. Larson provides new DOE infringement opinions for the preambles of the '376 and '865 patents and limitation 1[a] of the '865 patent. Dr. Larson opines that the "differences" between the "infringing code" being a part of inner loop power control instead of claimed outer loop power control ("OLPC") "are a matter of box drawing and are insubstantial." Ex. 1, Reply at ¶ 28. When Dr. Larson presented similar DOE theories in his opening report (Ex. 2 at ¶¶ 115, 320), Apple objected and raised the dispute at the *Markman* hearing. Ex. 3, Tr. at 121:22-125:7. TOT admitted that it did not disclose DOE theories in its infringement contentions but claimed discovery justified adding late DOE theories to the case. *Id.* at 123:6-25. The Court ordered the parties to confer. *Id.* at 121:22-125:7. TOT later withdrew Dr. Larson's DOE opinions from his opening report with a reservation of rights "to have Dr. Larson opine in his Reply Report on aspects of the Court's constructions of terms that were not previously presented by the parties." Ex. 4 (Dewalt Oct. 7 and 9, 2024 emails). Dr. Larson opined on DOE again in his Reply report. Ex. 1 at *e.g.*, ¶ 28.

Because TOT concedes these DOE opinions were not disclosed in its contentions, the Court should strike these untimely DOE theories pursuant to Federal Rules of Civil Procedure 16(b)(4) (requiring good cause to amend scheduling order) and 37(c)(1). See Intellectual Ventures I LLC v. AT&T Mobility LLC, No. 13-1668-LPS, 2017 WL 658469, at *1, 5-6 (D. Del. Feb. 14, 2017) (striking new infringement theories in expert reports not disclosed in final infringement contentions); Ex. 5, Vaxcel Int'l Co. Ltd. V. HealthCo LLC, C.A. No. 20-224, D.I. 226 (D. Del. June 28, 2022) (applying good cause standard to late contentions); Midwest Athletics & Sports

All. LLC v. Xerox Corp., 631 F. Supp. 3d 13, 43–44, 47, 49 (W.D.N.Y. 2022) (granting motion to strike expert theories and holding party cannot "circumvent" a lack of "diligen[ce] in seeking" leave to amend infringement contentions by "pursuing this undisclosed theory" in the expert's report) aff'd, No. 2023-1077, 2024 WL 2145756 (Fed. Cir. May 14, 2024).

The *Pennypack* factors, for the four reasons noted above, also support exclusion. See, e.g., Zimmer Surgical, Inc. v. Stryker Corp., 365 F. Supp. 3d 466, 502 (D. Del. 2019) (striking untimely doctrine of equivalents opinions raised in reply report and finding "opportunity to depose [expert] on his infringement theories" was not "sufficient to cure the prejudice," such as the inability "to assert different theories of non-infringement"). TOT lacks good cause to readvance new DOE theories now that TOT previously withdrew them in its expert report, and never alleged them in infringement contentions. TOT's new, untimely DOE theories are based on claim constructions briefed and presented to the Court many months before opening expert reports were due. Indeed, at the *Markman* hearing, TOT conceded that defendants "definitely said the preamble is limiting" (Ex. 3, Tr. at 124:4-5). The Court ruled that the preambles of the asserted claims are limiting, thereby limiting the claims to outer loop power control. D.I. 297 at 6-8. TOT also conceded at the *Markman* hearing that "everybody agrees" on what "outer loop power control means." Ex. 3, Tr. at 8:5-9:18. TOT presented the agreed construction later adopted by the Court ("the process of setting SIR_{target} to maintain a preset quality objective"), and the Court then asked the parties to confirm this construction is "consistent" with how the parties used the terms in expert reports, and TOT did not object. Id. at 9:22-10:5; D.I. 297 at 2. TOT's silence was not surprising, because TOT's expert already had addressed the Court's construction of OLPC in his opening expert report. Specifically, Paragraph 56 of Dr. Larson's opening report (submitted months before the Markman hearing) recited a meaning of OLPC that matches the Court's construction almost word-for-word: "Outer loop power control sets the desired SIR_{target} to maintain a pre-set quality objective." Ex. 2, Opening Rpt. at ¶ 56 (citing '865 Patent at 2:33-36); see also id. at ¶¶ 111, 114-115, 315. Thus, TOT cannot rely on the Court's claim construction of OLPC to attempt to excuse introducing a new DOE theory for the first time in Dr. Larson's Reply expert report. TOT lacks good cause to add Dr. Larson's new DOE theory to the case late and at a time when Apple's expert can no longer respond, and the Court should strike Dr. Larson's untimely DOE opinions as a result.

II. The Court Should Strike Dr. Larson's New Method Claim Infringement Theory.

For the first time in his Reply report in paragraphs 16-17 and 118, Dr. Larson alleges that Apple devices infringe the asserted method claims based on publicly available statistics cited in Apple's damages expert's rebuttal report regarding the percentage of 3G networks that were UMTS/WCDMA 3G networks. All parties agree that 3G networks are the only networks on which the claimed method <u>could</u> be performed (because the asserted patents claim 3G functionality). However, before TOT served Dr. Larson's Reply expert report, TOT never claimed (in its infringement contentions or opening report) that Apple accused products performed the claimed methods simply because they operated on UMTS/WCDMA 3G networks (particularly where TOT has not claimed or proven its patents are essential to the 3G standard). Thus, this opinion based on publicly available information long available to Dr. Larson and TOT is untimely under FRCP 16(b)(4) and 37(c)(1) and should be stricken or, alternatively, excluded under the *Pennypack* factors for at least the four reasons above.

III. The Court Should Strike Dr. Larson's New "Transition To 4G Networks" And "Continued Infringement After 3G Networks Shut Down in 2022" Theories.

Dr. Larson's Reply expert report (at paragraphs 203-206) also presents new theories regarding how Apple accused products purportedly can continue to infringe after 3G networks shut down in 2022 and how 3G networks purportedly continue to add value. It is undisputed that (1) all US carriers shut down their 3G networks in 2022, and many were transitioning to 4G well before that date, and (2) the asserted patents can only be infringed, if at all, on a 3G network. Ex. 1, Reply at ¶¶ 16-17, 201-206. The Court should strike or exclude under the *Pennypack* factors Dr. Larson's new, untimely opinions.

First, Dr. Larson newly opines that Apple accused devices continue to infringe in the United States because elsewhere in the world (such as in Australia and the United Kingdom) "3G networks continue to operate." Ex. 1, Reply at ¶ 203. Setting aside the improper extraterritorial extension of its U.S. patents, nowhere in Dr. Larson's opening report or TOT's infringement contentions did TOT previously disclose an infringement theory based on accused products purportedly operating on foreign 3G networks. Second, Dr. Larson newly opines that a technology called circuit-switch fallback, which according to Dr. Larson downgrades a call from a 4G to a 3G network under certain circumstances, caused continued infringement of the TOT patents even during the transition to and widespread adoption of 4G networks. *Id.* at ¶¶ 204-206. TOT never disclosed this theory, and all the material Dr. Larson cites to support it was published long before Dr. Larson's August 23, 2024 opening expert report was due. *Id.*

IV. The Court Should Strike Mr. Chandler's New Reply Damages Theory.

In his opening report, Mr. Chandler opined that Apple owes TOT approximately damages. Ex. 6, Chandler Opening at ¶ 402, Corrected-Exhibit 8. Mr. Chandler reached his opinion by calculating a percentage royalty rate from TOT's 2012 Technology and Services Agreement and applying that rate to all accused product revenue. *Id.* After Apple served a rebuttal damages report that criticized Mr. Chandler's analysis, he served a Reply expert report with a radical new damages theory—that Apple purportedly owes TOT which TOT relies on to oppose Apple's *Daubert* motions. D.I. 327 at 32-37. That figure is the royalty disclosed in Mr. Chandler's opening report and Ex. 7, Chandler Reply at ¶¶ 118-121, 132, Ex. 12. Notably, Mr. Chandler's new opinion was derived from information he already had when preparing his opening report.

Indeed, Mr. Chandler conceded at his deposition that he could have performed the royalty calculation in his opening report. Ex. 8, Chandler Tr. at 172:8-13; see also D.I. 327 at 35 n. 10 (TOT acknowledging that Mr. Chandler could have, but did not, perform this "calculat[ion]" in his opening report). He claimed he provided this new calculation because Apple's expert criticized his failure to apportion. Id. at 162:18-164:7. But Mr. Chandler did not merely respond to that criticism; instead, he created an entirely new damages theory to try and make his initial, flawed calculation seem reasonable by comparison. TOT bears the burden of proof on damages, and Mr. Chandler should have disclosed his damages opinion in his opening report, when Apple's expert could respond. The Court should exclude Mr. Chandler's untimely damages theory as a result. Sunovion Pharms. Inc. v. Dey Pharma., L.P., No. 06-113-LPS, 2012 WL 6858144, at *2 (D. Del. Jan. 27, 2012) (striking opinions in expert's reply report not timely disclosed in opening report).

Date: December 23, 2024

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Attorney for Defendant Apple Inc.

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

TOT POWER CONTROL, S.L.,	
Plaintiff,	C.A. No. 21-cv-1302-M
v.	
APPLE INC.,	
Defendant.	

REPLY EXPERT REPORT OF LAWRENCE E. LARSON REGARDING INFRINGEMENT

Submitted this 22nd day of October, 2024.

By: Lawrence E. Larson, Ph.D.

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V. RESPONSE TO DR. STARK'S NONINFRINGEMENT OPINIONS REGARDING THE '865 PATENT

- 13. As discussed in my Opening Report on Infringement, it is my opinion that the Apple/Qualcomm Accused Products and Apple/Intel Accused Products infringe the asserted claims of the '865 Patent. Dr. Stark's opinions to the contrary are not convincing.
- I note that for each claim step, Dr. Stark asserts that alleged prior art Qualcomm code performed those claim steps. For example, Dr. Stark repeatedly states with respect to various elements of the '865 claims that the accused functionality was present in "the Qualcomm Prior Art Modem," which he also refers to as the Qualcomm MSM6250/Saber chipset and software. *See, e.g.*, Stark Rebuttal, ¶¶ 93, 117, 133, 143, 152, 159, 173. The alleged Qualcomm prior art does not disclose all elements of the Asserted Claims of the '865 Patent as described in detail in § X of my Rebuttal Report on Validity, served October 1, 2024. For example, as described below in § V.A.1.g, MSM6250/Saber does not perform at least claim element [1.f] of the '865 Patent.
- 15. As well, it is my understanding that Apple has stated that it will not rely on prior Qualcomm products as prior art in this case. Moreover, these and other portions of the Rebuttal Report asserting that various steps are within the prior art are not responsive to any opinions I provided in my Opening Report. In any event, for all the reasons I previously stated in § X of my Rebuttal Report on Validity, it is my opinion that the Qualcomm Prior Art Modem does not disclose all elements of the Asserted Claims of the '865 Patent.
- 16. Dr. Stark asserts that I have not sufficiently shown infringement of the method claims of the '865 Patent by any of the Apple/Qualcomm Accused Products or Apple/Intel Accused Products because infringement of those claims requires use of the product in a UMTS/WCDMA network, and I did not show that any of accused products were necessarily used in a UMTS/WCDMA network. However, I note that Apple's damages expert, Mr. Bakewell, has

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acknowledged in his October 1, 2024 Rebuttal Expert Report Regarding Damages that in the U.S. the four major cellular service providers with 3G networks were Verizon, Sprint, AT&T, and T-Mobile. *See* Bakewell Report, ¶ 83. Mr. Bakewell states that "[t]ogether, Verizon, Sprint, AT&T, and T-Mobile were the leading cellular service providers in the United States, comprising over 90% of subscribers since 2011 and 99% of subscribers in each year since 2021." *Id.* Mr. Bakewell further states:

In the United States, Verizon and Sprint (now owned by T-Mobile) used CDMA2000, and AT&T and T-Mobile used WCDMA. In the 2015 through 2019 timeframe, wireless 3G mobile service in the United States was split approximately 50/50 between CDMA2000 and WCDMA. In 2015, CDMA2000 operators Verizon and Sprint comprised approximately 34% and 16% of connections, respectively. WCDMA operators AT&T and T-Mobile comprised approximately 34% and 16% of connections.

Id. at ¶ 85. This is consistent with my understanding of the relative prevalence of CDMA2000 and WCDMA networks in these time periods. The accused method was performed each and every time a call was placed or received via a WCDMA network.

- 17. Given that roughly 50% of the 3G networks in the U.S. were WCDMA networks in the 2015 through 2019 timeframe, a large proportion of the accused products operated on a WCDMA network, and therefore performed the infringing method. In addition, as I discuss in more detail in § VIII.E below, voice calls over 4G (LTE) networks can sometimes be downgraded to 3G through a process called Circuit Switched Fallback (CSFB). Thus, it is possible for accused products operating in 4G networks to occasionally switch over to communicating over a WCDMA network as a backup under certain conditions.
- 18. In addition, I note that asserted claims 5, 6, 7, 8, 10, and 12 of the '865 Patent are product claims, rather than method claims, and thus it is irrelevant whether the Apple/Qualcomm Accused Products or Apple/Intel Accused Products were ever actually used on a UMTS/WCDMA

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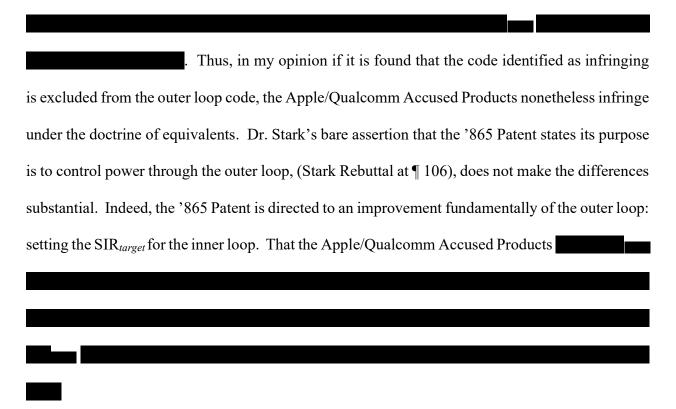
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Report and reiterate below in § V.A.1.c,
and is part of outer loop power control under the Court's construction.
28. Finally, to the extent that relevant portions of the infringing code are deemed
exclusively part of the inner loop—which they are not—and that the claim preamble excludes any
element that is not wholly within the outer loop—which it does not—the differences are a matter
of box drawing and are insubstantial. Inner and outer loop are both part of a broader power control
algorithm and are highly interrelated.
Thus, whether
particular functions fall within one area of code or another they nonetheless are part of a cohesive
system.
29. The infringing code performs the same function as "outer loop power control," as
its purpose is the same:

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- 30. As a result, the Apple/Qualcomm Accused Products meet the preambles of claims 1 and 5 of the '865 Patent.
 - b) [1.a] estimating a desired signal to interference ratio received (SIRrec) based on a data signal (107, 108) received from a base station (102, 103) or mobile station (104)
 - [5.a] estimating a desired signal to interference ratio received (SIRrec)based on a data signal (107, 108) received from a base station (102, 103) or mobile station (104)
- 31. I disagree with Dr. Stark's opinion that the Apple/Qualcomm Accused products do not satisfy claim elements [1.a] and [5.a] of the '865 Patent. Dr. Stark primarily takes issue with whether the Apple/Qualcomm Accused Products

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		. Th	nus, the Ap	ple/Qualcom	m

Accused Products meet this limitation.

- 35. Dr. Stark asserts that this functionality is not within the outer loop, simply because

 Stark Rebuttal
- at ¶ 114. As described above with respect to the preamble, Dr. Stark's interpretation of the Court's construction is incorrect overall and with respect to claim elements [1.a] and [5.a]. See § V.A.1.a, above. Moreover, Dr. Stark cites no authority that the Court's construction of "outer loop power control" requires that the functionality be part of any particular file or device. Measuring the received SIR is a fundamental part of "the process of setting SIR_{target} to maintain a pre-set quality objective." That process includes the detection of "outer loop wind-up" which the Court has construed to mean "an outer loop condition or mode, that occurs outside of normal mode, wherein the signal to interference ratio received (SIR_{rec}) does not follow the desired signal to interference ratio target (SIR_{target})." Measuring SIR_{rec} is a basic element of detecting outer loop windup and so is part of the process of the outer loop. As a result, the Apple/Qualcomm Accused Products perform this element as part of an outer loop power control method or device.
- 36. The Court's claim construction of "outer loop power control" requires only that the steps of the method are part of "the process of setting SIR_{target} to maintain a pre-set quality objective." However, Dr. Stark's argument (while not referring to this construction) appears to assert that "the process of setting SIR_{target} to maintain a pre-set quality objective" excludes any

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functionality that is part of the inner loop. As described above, that is incorrect. However, to the extent that relevant portions of the infringing code described above are deemed exclusively part of the inner loop—which they are not—and that the claim preamble excludes any element that is not wholly within the outer loop—which it does not—the differences are a matter of box drawing and are insubstantial. Inner and outer loop are both part of a broader power control algorithm and are highly interrelated. . Thus, whether particular functions fall within one area of code or another they nonetheless are part of a cohesive system. 37.

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- 38. Thus, in my opinion if it is found that the code identified as infringing is excluded from the outer loop code, the Apple/Qualcomm Accused Products nonetheless infringe under the doctrine of equivalents based on the Court's claim construction of "outer loop power control" as "the process of setting SIR_{target} to maintain a pre-set quality objective." The Apple/Qualcomm Accused Products perform the same function of estimating a desired SIRrec during "the process of setting SIR_{target} to maintain a pre-set quality objective," in the same way, and with the same result. And the differences between the Apple/Qualcomm Accused Products and Dr. Stark's incorrect interpretation of the Court's construction of "the process of setting SIR_{target} to maintain a pre-set quality objective" to exclude inner loop functionality are in reality insubstantial. Deciding what is inner loop versus outer loop is merely a line-drawing exercise that is immaterial to the operation of the Accused Products.
 - c) [1.b] setting a desired signal to interference ratio target (SIR_{target}) that is close to a signal to interference ratio required (SIR_{rec}) during the normal mode of the outer loop
 - [5.b] setting a desired signal to interference ratio target (SIR $_{target}$) that is close to a signal to a signal to interference ratio required (SIR $_{req}$) during the normal mode of the outer loop
- 39. Dr. Stark asserts that I did not demonstrate that the Apple/Qualcomm Accused Products set a desired SIR_{target} that is "close to a SIR_{req}" during the normal mode of the outer loop. Dr. Stark ignores the evidence that I provided regarding these claim elements. First, Dr. Stark argues that the Apple/Qualcomm Accused Products "The Products of Stark Rebuttal," Stark Rebuttal, 119. Nothing in the claims requires setting a SIR_{req}, and so this criticism is irrelevant. Second, it is clear that the Apple/Qualcomm Accused Products perform the step of setting a desired signal to interference ratio target that is close to a signal to interference ratio required during the normal mode of the outer loop. Indeed, it is a fundamental aspect of an OLPC algorithm to perform this

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- 1. The Apple/Intel Accused Products Infringe Claims 1 and 5 of the '865 Patent
 - a) [1.pre] Outer loop power control method for wireless communications systems, based on CDMA technology, the method comprising

[5.pre] An outer loop power control device for wireless communications systems, comprising at least one programmable electronic device, the programmable electronic device operable to perform the steps of

- 82. I disagree with Dr. Stark that the Apple/Intel Accused Products do not meet the preambles of claims 1 and 5 of the '865 Patent.
- 83. Dr. Stark reiterates his opinion that the element of estimating a desired SIR_{rec} is not part of an outer loop power control method, based the Court's construction of the preamble as limiting. For the same reasons as described above in §§ V.A.1.a and V.A.1.b, Dr. Stark is incorrect.
- 84. As a result, the Apple/Intel Accused Products meet the preambles of claims 1 and 5 of the '865 Patent.
 - b) [1.a] estimating a desired signal to interference ratio received (SIRrec) based on a data signal (107, 108) received from a base station (102, 103) or mobile station (104)

[5.a] estimating a desired signal to interference ratio received (SIRrec)based on a data signal (107, 108) received from a base station (102, 103) or mobile station (104)

- 85. I disagree with Dr. Stark's opinion that the Apple/Intel Accused Products do not satisfy claim elements [1.a] and [5.a] of the '865 Patent.
- 86. Dr. Stark takes various issues with my identification of the Apple/Intel Accused Products' performance of "estimating a desired signal to interference ratio received (SIRrec) based

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detail with claim element [1.c] below. See e.g., APPLE_INTEL_000007 at l. 1052; see also Afzal Ahmad Deposition (3/19/2024) at 101:9-104:13 ("

- "). Thus, even if considered an inner loop function, it is still part of the outer loop power control method/device of the claims as construed by the Court.
- 91. Again, Dr. Stark (while not referring to the Court's actual construction of "outer loop power control") appears to assert that "the process of setting SIR_{target} to maintain a pre-set quality objective" excludes any functionality that is part of the inner loop. As described above, that is incorrect. However, to the extent that relevant portions of the infringing code for —which they are not—and that the claim preamble excludes any element that is not wholly within the outer loop—which it does not—the differences are a matter of box drawing and are insubstantial. Inner and outer loop are both part of a broader power control algorithm and are highly interrelated. Thus, whether particular functions fall within one area of code or another they nonetheless are part of a cohesive system.
- 92. The infringing code performs the same function of "

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93	3.	Thus, in my o	pinion if it is found that the code identified as infringing is excluded
from the c	outer	loop code, the	Apple/Intel Accused Products nonetheless infringe under the doctrine
of equiva	lents	based on the	Court's claim construction of "outer loop power control" as "the
process o	f set	ting SIR _{target} t	o maintain a pre-set quality objective." The Apple/Intel Accused
Products 1	perfo	rm the same for	unction of
			. Deciding what is inner
loop versi	us ou	ter loop is me	rely a line-drawing exercise that is immaterial to the operation of the
Accused I	Produ	ıcts.	
94	ŀ.	As a result, it	is my opinion that the Apple/Intel Accused Products perform claim
elements	[1.a]	and [5.a].	
		c)	[1.b] setting a desired signal to interference ratio target (SlR $_{\rm target}$) that is close to a signal to interference ratio required (SlR $_{\rm rec}$) during the normal mode of the outer loop
			[5.b] setting a desired signal to interference ratio target (SIR $_{target}$) that is close to a signal to a signal to interference ratio required (SIR $_{req}$) during the normal mode of the outer loop
95	5.	I disagree wit	h Dr. Stark's opinion that the Apple/Intel Accused Products do not
satisfy cla	im e	lements [1.b]	and [5.b] of the '865 Patent.
96).	Dr. Stark reco	gnizes that the code and the information I cited relates to
			. Stark Rebuttal at ¶ 236. Strangely, Dr. Stark asserts
that			. Not so, as the

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VI. RESPONSE TO DR. STARK'S NONINFRINGEMENT OPINIONS REGARDING THE '376 PATENT

- 117. As discussed in my Opening Report on Infringement, it is my opinion that the Apple/Qualcomm Accused Products infringe the asserted claims of the '376 Patent. Dr. Stark's opinions to the contrary are not convincing.
- of the '376 Patent by any of the Apple/Qualcomm Accused Products because infringement of that claim requires use of the product in a UMTS/WCDMA network, and I did not show that any of accused products were necessarily used in a UMTS/WCDMA network. As I discussed in § V above, however, Apple's own damages expert, Mr. Bakewell, acknowledges that roughly 50% of the 3G networks in the U.S. were WCDMA networks in the 2015 through 2019 timeframe. Based on these numbers, a large proportion of the accused products operated on a WCDMA network, and therefore performed the infringing method.
- 119. In addition, I note that asserted claims 6-9, 11, and 13 of the '376 Patent are product claims, rather than method claims, and thus it is irrelevant whether the Apple/Qualcomm Accused Products were ever actually used on a UMTS/WCDMA network. The Apple/Qualcomm Accused Products infringe the product claims by virtue of the fact that they include functionality that meets all the elements of the claims, regardless of how the products are actually used.

A. The Apple/Qualcomm Accused Products Infringe Claims 1, 6, and 13 of the '376 Patent

1. Preambles of Claims 1, 6, and 13, and element [13.a]

[1.pre] Outer loop power control method for wireless communications systems which based on a data signal (107, 108) received, coming from a base station (102, 103) or from a mobile station (104), comprises the following phase

[6.pre] An outer loop power control apparatus for wireless communications systems, comprising at least one programmable

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electronic device the programmable electronic device operable to, based on a data signal received from a base station or from a mobile station, perform the steps of 13.pre] A mobile station for wireless communications systems, comprising an outer loop power control apparatus the apparatus comprising:

[13.pre] A mobile station for wireless communications systems, comprising an outer loop power control apparatus the apparatus comprising:

[13.a] at least one programmable electronic device, the programmable electronic device operable to, based on a data signal received from a base station or from a mobile station, perform the steps of

120. I disagree with Dr. Stark's opinion that the Apple/Qualcomm Accused Products do not satisfy the preamble of the asserted claims of the '376 Patent. First, Dr. Stark argues that the Apple/Qualcomm Accused Products do not satisfy the preamble because the preamble includes the limitation "outer loop power control," and Dr. Stark contends that some of the infringing functionality in the Apple/Qualcomm Accused Products that I have identified is actually performed as part of inner loop, rather than outer loop, power control. Stark Rebuttal, ¶¶ 317-320. This is essentially the same argument that Dr. Stark raised with respect to the preamble of the '865 claims. But as I discussed in § V.A.1.a above, Dr. Stark has misapplied the Court's claim construction regarding the claim preambles and the term "outer loop power control" within the preambles. The arguments I already made in § V.A.1.a therefore apply equally here. As I understand it, there is nothing in the Court's claim construction of the claim preambles or "outer loop power control" that requires all steps of the claimed methods to be performed by the outer loop. Thus, the possibility that some of the infringing functionality may be performed by inner loop processes in the Apple/Qualcomm Accused Products does not negate infringement. Rather, as I discussed above in § V.A.1.c., in the Apple/Qualcomm Accused Products meets the Court's construction of "outer loop power control" because it is a "process of setting SIR_{target} to maintain a pre-set quality objective," where

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(as explained in § VI.C.1 of my Opening Report as well as below).

- 121. Dr. Stark also argues that the Apple/Qualcomm Accused Products do not satisfy the preamble because the preambles refer to a "data signal" that is received, and Dr. Stark asserts that
- "Stark Rebuttal, ¶ 321. This argument fails for several reasons. First, I understand that the Court did not rule that the term "data signal" in the '376 claim preambles is limiting. Rather, the only part of the claim preambles that the Court held to be limiting is phrase "outer loop power control." *See* the Court's 10/15/24 Memorandum Order at 2-3. Thus, Dr. Stark incorrectly assumes that "data signal" in the preambles of '376 claims 1 and 6 is a limitation of the claims.

2. [1.a] [6.a] [13.b] establishing a target block error rate (BLER_{target})

123. I disagree with Dr. Stark's opinion that the Apple/Qualcomm Accused Products do not satisfy elements [1.a], [6.a], and [13.b] in '376 claims 1, 6, and 13, respectively, which recite "establishing a target block error rate (BLER_{target})." Dr. Stark argues that in WCDMA networks it is the network that establishes the target block error rate, not the accused product (the mobile

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"calculating an estimate (701) of a desired signal to interference ratio (SIR_{rec}) and of some fading parameters in a channel (706) which characterize the data signal (107, 108) received." I understand that the Court has now construed "some fading parameters" to mean "one or more fading parameters." As I discussed in my Opening Report, under this construction the Apple/Qualcomm Accused Products satisfy this element. *See* Opening Report, \P 335-352.

- 134. First, I do not understand Dr. Stark's disagreement with my opinion that the Apple/Qualcomm Accused Products comply with the 3G standards. *See* Stark Rebuttal, ¶ 342. I already discussed in my Opening Report the evidence from Apple's own documents showing that the Apple/Qualcomm Accused Products comply with the 3G standards, as would be expected of products that are sold to consumers for use on 3G networks. *See, e.g.*, Opening Report, ¶¶ 110. Also, I note that Dr. Stark has not presented any evidence suggesting that the Apple/Qualcomm Accused Products do not comply with the 3G standards.
- 135. In addition, to the extent Dr. Stark argues that the standards documents I rely on show that this "calculating an estimate" step is occurring in the inner versus outer loop, his argument fails because the claims do not require that all steps of the method be performed by the outer loop for the reasons I discussed in § V.A.1.a above.
- 136. Dr. Stark also incorrectly criticizes my reliance on 3G standards documents to support my opinion that the Apple/Qualcomm Accused Products practice the step of "calculating an estimate (701) of a desired signal to interference ratio (SIR_{rec})." I note that in his opening report on invalidity, Dr. Stark himself relies on the same standards documents to argue that this step was already known in the prior art. Specifically, in his invalidity report, Dr. Stark argues that "[t]he WCDMA standard at the time of the invention describes the estimation of the received signal to

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- 201. I also understand that Dr. Stark and Mr. Bakewell have opined that the value of the Asserted Patents is limited because they relate to 3G networks, which began to be replaced by 4G (LTE) networks in the U.S. starting around 2010 as 4G networks began to be implemented by cellular service providers in the U.S. I disagree.
- 202. While it is true that 4G networks were beginning to be implemented in the U.S. starting in 2010, WCDMA networks were still prevalent in the U.S., and continued to operate along with 4G networks for many years, including between 2011 and 2016 (the time period covering the parties' asserted dates for the hypothetical negotiation). In fact, wireless carriers in the U.S. continued to operate 3G networks in the U.S. until the end of 2022. *See* June 30, 2022 PCMag article, "The 3G Shutdown: How Will It Affect Your Phone?" (TOT00214542-TOT00214552). This explains why even the newer releases of the Apple/Qualcomm Accused Products have continued to include functionality for operating on 3G networks, to ensure that the products can perform roaming between networks as they travel through the coverage areas of different networks.
- 203. In addition, even though the last 3G network in the U.S. was shut down at the end of 2022, 3G networks have continued to operate in other countries after that date. For example, 3G networks continue to operate in Australia and are not scheduled to be shut down until the end of October 2024. *See* Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts web page, "3G network switch off," available at https://www.infrastructure.gov.au/media-communications-arts/phone/mobile-services-and-coverage/3g-network-switch. And 3G networks continue to operate in the United Kingdom, and are expected to continue operating through at least 2025. *See* O2 web page, "Saying goodbye to 3G," available at https://www.o2.co.uk/inspiration/the-drop/get-ready-for-the-3g-switch-

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off#:~:text=As%20part%20of%20our%20network,by%202033%20at%20the%20latest. Thus, 3G functionality remains an important feature for mobile devices even today so that devices can perform roaming on 3G networks overseas.

- 204. Also, for many years after the introduction of 4G (LTE) networks, a high percentage of voice calls were downgraded to 3G through a process called Circuit Switched Fallback (CSFB), as Voice over LTE (VoLTE) coverage was not fully deployed and many devices were not yet compatible with it. Therefore, 3G voice usage remained fully active and at high capacities for many years after the arrival of 4G (LTE). See Qualcomm White Paper, Circuit-switched fallback to 1x voice: Network architecture, options and performance (January 2013); Itsuma Tanaka et al., CS Fallback Function for Combined LTE and 3G Circuit Switched Services, NTT DOCOMO Technical Journal Vol. 11, No. 3 (2009); Bautista, Jose E. Vargas, et al., Performance of CS Fallback from LTE to UMTS, IEEE Communications Magazine, 51(9), at 136-143 (2013).
- 205. CSFB was standardized by the 3GPP by 2013. See Bautista, Jose E. Vargas, et al., Performance of CS Fallback from LTE to UMTS, IEEE Communications Magazine, 51(9), at 136 (2013). Estimates of the prevalence of CSFB are available in the literature. For example, a 2018 paper from the Second International Balkan Conference on Communications and Networking reported that, in that year, CSFB was the most widely used method for handling voice traffic over LTE networks. See Bujar Krasniqi et al., VoLTE Performance Analysis and Evaluation in Real Networks, Second International Balkan Conference on Communications and Networking Podgorica, Montenegro, June 6-8, 2018 at 1 ("The cellular communications industry has witnessed extensive growth since the mid of 1990's. The demand for higher speeds and better Quality of Experience (QoE) in mobile communications network is continually increasing. Long-Term

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Evolution (LTE) supports only packet-switched network across an all-IP system, whereas previous cellular networks GSM or UMTS support both packet- and circuit switched network. In the beginning of LTE deployment, all voice traffic is handled by legacy Circuit-Switched (CS) networks, while data traffic is handled by LTE packet-switched networks. Some solutions have been proposed in order to deliver voice services in LTE. In practice mostly it is used the so-called Circuit Switched Fall Back (CSFB) approach, which enables voice transmission in LTE via legacy networks."). Thus, 3G networks remained important for many years as a supporting technology for 4G services.

206. Other references make clear that CSFB was in widespread use even to the present. See Ratul, R.H., et al., Performance Comparison Between VoLTE and non-VoLTE Voice Calls During Mobility in Commercial Deployment: A Drive Test-Based Analysis, 10th International Conference on Electrical Engineering, Computer Science and Informatics (EECSI), September 2023, at 446-452 (September 2023) ("By implementing VoLTE technology, mobile network operators no longer need to dedicate separate circuit-switched (CS) services for voice and data, thereby simplifying their network infrastructure and reducing operational costs [4]."); Kaikkonen, P., Integration test environment for 5G mobile software modules, Master's thesis (May 2024), at 9 ("Since the LTE and subsequent technologies do not include a circuit-switched domain for voice calls, voice has to be delivered by other means. For years, operators have continued to rely on the already existing and widely present circuit-switched domain of 2G and 3G networks and Circuit-Switched Fallback (CSFB) mechanisms as a transitional solution to provide voice services using these legacy networks. An LTE network with Circuit-Switched Fallback redirects a mobile device to a circuit-switched 2G or 3G core network to originate and receive voice calls. The adoption of this interim solution has given network operators time to evaluate their options for future voice

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services and allowed them to postpone massive investments that new generation technologies require."); *id.* at 10 ("However, limited coverage of 5G networks as well as delayed deployment of VoNR technology to operators' core networks call for a transitional solution, especially if legacy CSFB solutions might no longer be in operation in the near future.").

D. Date of First Infringement

207. Dr. Stark criticizes my analysis of the date of first infringement for not reviewing the source code of the iPhone 4S and for not performing a limitation-by-limitation analysis. Stark Rebuttal at ¶ 453. However, reviewing that source code is not necessary. Dr. Stark provides his opinion in the Rebuttal that the alleged prior art Qualcomm chips (on which the chip in the 4S was based) performed all elements of the '865 Patent. I disagree with Dr. Stark that those earlier chips performed claim element [1.f], but as discussed in my opening report, it is apparent that that element was added in the iPhone 4S in or around October 2011.

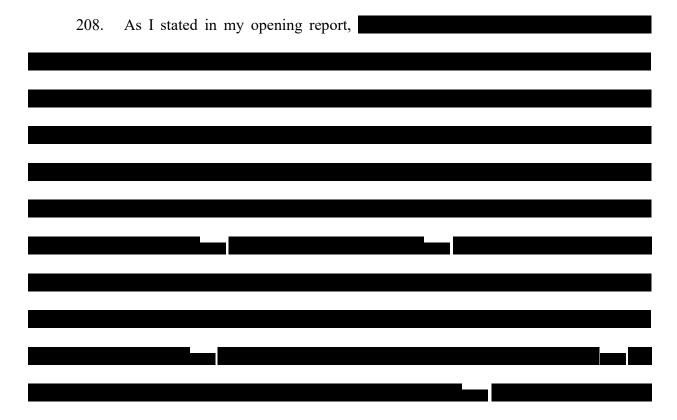


EXHIBIT 2

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

TOT POWER CONTROL, S.L.,	
Plaintiff,	C.A. No. 21-cv-1302-MN
v.	
APPLE INC.,	
Defendant.	

OPENING EXPERT REPORT OF LAWRENCE E. LARSON REGARDING INFRINGEMENT

Submitted this 23rd day of August, 2024.

Lawrence E. Larson, Ph.D.

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2007) at 18. The need to control transmission can be illustrated in a real-world scenario by the "cocktail party problem," which was well-expressed by Vesa Hasu in a 2007 PhD thesis:

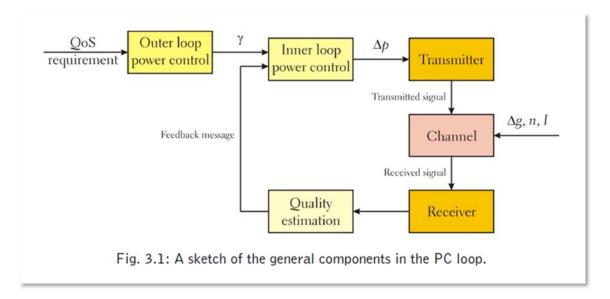
A famous source separation metaphor is the so-called cocktail party problem, wherein several people are talking simultaneously at a cocktail party and one is trying to follow a single discussion. If somebody does not hear the speech well enough, the speaker must increase the volume. Unfortunately, this simultaneously increases the interference in other discussions at the cocktail party and the other parties have to increase their volume also. To avoid this upward spiral being realised in multiple access radio communication, transmission power control must be used.

Id. at 2.

- 55. As the '865 Patent describes, there are three procedures for implementing power control in a WCDMA system: (1) open loop, (2) closed or inner loop, and (3) outer loop. '865 Patent at 2:12-46. In open loop, at the start of a connection the base station estimates power loss in the uplink/downlink and adjusts its transmission power accordingly. '865 Patent at 2:14-17. In closed or inner loop, the receiver compares the value of the desired signal-to-interference ratio received (SIR_{rec}) to a desired signal to interference ratio target that the receiving device has determined would provide optimal call quality (SIR_{target}). '865 Patent at 2:21-25. If the SIRrec is above or below the SIR_{target}, the receiver sends power control bits (e.g. TPC commands) to the base station requesting that the downlink power be increased or reduced by a certain value. '865 Patent at 2:27-29. Finally, the transmitter increases or decreases power by that amount. '865 Patent at 2:31-32.
- 56. Outer loop power control sets the desired SIR_{target} to maintain a pre-set quality objective. '865 Patent at 2:33-36. Criteria for the quality may include frame error rate (FER), bit error rate (BER) or a block error rate (BLER). '865 Patent at 2:36-37; Harri Holma & Antti Toskala, *WCDMA for UMTS: Radio Access for Third Generation Mobile Communications*, John Wiley & Sons, Ltd (2004) at 57 ("Outer loop power control adjust the SIR setpoint in the base

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station according to the needs of the individual radio link and aims at constant quality, usually defined as a certain target bit error rate (BER) or block error rate (BLER)."). An equivalent alternative quality measure could be to use a bit error rate, such as one derived from received TPC commands. *See, e.g.*, R1-050066, TSG-RAN Working Group 1 Meeting #40, February 14-18, 2005 (TOT00155727-30). If the received error rate is greater than the target error rate, the call quality is degraded. '865 Patent at 2:54-61. In that event, the OLPC algorithm increases the desired SIR_{target} to try and reach the target quality criterion. '865 Patent at 2:60-3:2. The OLPC algorithm continues to increase the SIR_{target} until the desired error rate is achieved. '865 Patent at 3:3-5. If SIRrec is higher than required, the receiver will then lower the SIRtarget and send commands to the base station to note that it needs less power. '865 Patent at 3:8-27. A picture of the overall power control loop is reproduced here:



Radio Resource Management in Wireless Communication: Beamforming, Transmission power Control, and Rate Allocation, Hasu (June 2007) at 21.

57. Inner loop power control and outer loop power control are interrelated as described below:

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APL-TOTDDE_00693077. *See also* APL-TOTDDE_00690652 (iPhone 13 Pro Max Technical Specifications: "CDMA EV-DO Rev. A (800, 1900 MHz) ... UMTS/HSPA+/DC-HSDPA (850, 900, 1700/2100, 1900, 2100 MHz)"); APL-TOTDDE_00693112 (iPad (6th generation) - Technical Specifications).

WCDMA (Wideband Code Division Multiple Access)

UMTS standard for 3G digital mobile networks, using CDMA technology. It is the evolution path for GSM and EDGE to UMTS and offers increased voice capacity and theoretical peak data speeds of up to 2 Mbps. The 3GPP task group continues to work on the evolution of WCDMA toward 4G and has defined a series of evolutionary steps:

 $https://www.gartner.com/en/information-technology/glossary/wcdma-wideband-code-division-multiple-access\#: \sim: text=Division\%20 Multiple\%20 Access)-$

"WCDMA%20(Wideband%20Code%20Division%20Multiple%20Access),of%20up%20to%202 %20Mbps.

111. The 3G standards, with which the Apple/Qualcomm Accused Products are advertised to comply, provide for methods of outer loop power control. For example, the UMTS (also referred to as WCDMA) requirements for outer loop power control are described in the following 3G technical specifications:

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14.9s Downlink power control

14.9.1 Generalities

This function is implemented in the UE in order to set the SIR target value on each CCTrCH used for the downlink power control. This SIR value shall be adjusted according to an autonomous function in the UE in order to achieve the same measured quality as the quality target set by UTRAN. The quality target is set as the transport channel BLER value for each transport channel as signalled by UTRAN.

When transport channel BLER is used the UE shall run a quality target control loop such that the quality requirement is met for each transport channel, which has been assigned a BLER target.

The UE shall set the SIR target when the physical channel has been set up or reconfigured. It shall not increase the SIR target value before the power control has converged on the current value. The UE may estimate whether the power control has converged on the current value, by comparing the averaged measured SIR to the SIR target value.

ETSI TS 125 331 V10.20.0 (2016-08) § 14.9.1 (TOT00000415-2340 at TOT00002240).

7.2.4.8 RF power control

This group of functions controls the level of the transmitted power in order to minimise interference and keep the quality of the connections. It consist of the following functions: UL Outer Loop Power Control, UL Inner Loop Power Control, DL Inner Loop Power Control, UL Open Loop Power Control and DL Open Loop Power Control.

ETSI TS 125 401 V4.2.0 (2001-09) § 7.2.4.8 (TOT00000375-414 at TOT00000398).

Responding to a downlink TPC command, the UE shall change its uplink DPCH output power at the beginning of the first uplink pilot field after the TPC command reception. Responding to an uplink TPC command, the UTRAN access point shall change its DPCH output power at the beginning of the next downlink pilot field after the reception of the whole TPC command. Note that in soft handover, the TPC command is sent over one slot when DPC_MODE is 0 and over three slots when DPC_MODE is 1. Note also that the delay from the uplink TPC command reception to the power change timing is not specified for UTRAN. The UE shall decide and send TPC commands on the uplink based on the downlink SIR measurement. For the DPCH, the TPC command field on the uplink starts, when measured at the UE antenna, 512 chips after the end of the downlink pilot field. The UTRAN access point shall decide and send TPC commands based on the uplink SIR measurement. However, the SIR measurement periods are not specified either for UE nor UTRAN.

ETSI TS 125 214 V12.1.0 (2015-01) Annex B § B.1.

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B.2 Example of implementation in the UE

The downlink inner-loop power control adjusts the network transmit power in order to keep the received downlink SIR at a given SIR target, SIR_{target}. A higher layer outer loop adjusts SIR_{target} independently for each connection.

The UE should estimate the received downlink DPCCH/DPDCH power of the connection to be power controlled. Simultaneously, the UE should estimate the received interference and calculate the signal-to-interference ratio, SIR_{est}. SIR_{est} can be calculated as RSCP/ISCP, where RSCP refers to the received signal code power on one code and ISCP refers to the non-orthogonal interference signal code power of the received signal on one code. Note that due to the specific SIR target offsets described in [5] that can be applied during compressed frames, the spreading factor shall not be considered in the calculation of SIR_{est}.

The obtained SIR estimate SIR_{est} is then used by the UE to generate TPC commands according to the following rule: if SIR_{est} > SIR_{target} then the TPC command to transmit is "0", requesting a transmit power decrease, while if SIR_{est} < SIR_{target} then the TPC command to transmit is "1", requesting a transmit power increase.

When the UE is in soft handover, the UE should estimate SIRest from the downlink signals of all cells in the active set.

Other technical documentation produced in this case, including source code, device

ETSI TS 125 214 V12.1.0 (2015-01) Annex B § B.2.

112.

specifications, repair guides, processor specifications, and algorithm documentation, likewise support my opinion that the Apple/Qualcomm Accused Products meet the preamble of this claim.

See

113. Qualcomm's also confirmed in his deposition that . See . . . See also

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114. I understand that defendants may rely on the claim construction argument that the preamble is limiting, to further argue that Accused Products do not infringe, because some of the code that TOT has identified as infringing is alleged to be part of the "inner loop" rather than the "outer loop." In the first instance, even if the preamble is limited to "outer loop," it is my opinion that the Accused Products literally infringe this claim. The functionality described herein that implements the claim elements is outer loop functionality. The software and firmware code described herein implements functions that both meet the claim elements, and are directed to the functioning of the CDMA power control "outer loop." For example, the code

opinion that the Accused Products infringe under the doctrine of equivalents because, even if relevant portions of the infringing code were deemed exclusively part of the inner loop—which they are not—the differences are a matter of semantics and are insubstantial. Inner and outer loop are both part of a broader power control algorithm and are inextricable in CDMA. Thus, whether particular functions fall within one area of code or another they nonetheless are part of a cohesive system. Moreover, as will be described below, the infringing code performs the same function as an outer loop algorithm would, as its purpose is the same,

be described in more detail below, the infringing code performs that functionality

See elements [1.b]-[1.e], infra. Finally, the

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infringing code reaches the same result

See element [1.b]-[1.e], infra. Thus, in my opinion if the Court were to find that the preamble of claim 1 is limiting and it is found that the code identified as infringing below is part of the inner loop, the Accused Products nonetheless infringe under the doctrine of equivalents.

- b) [1.a] estimating a desired signal to interference ratio received (SIR_{rec}) based on a data signal (107, 108) received from a base station (102, 103) or mobile station (104)
- 116. Element [1.a] in claim 1 recites "estimating a desired signal to interference ratio received (SIR_{rec}) based on a data signal (107, 108) received from a base station (102, 103) or mobile station (104)." In my opinion, the Apple/Qualcomm Accused Products perform this element.
- 117. The Apple/Qualcomm Accused Products comply with the 3G standard, which explains that the SIR_{rec} ratio is a computed value based on, in part, the received signal code power. For example, the UMTS specification states that user equipment "should estimate the received downlink DPCCH/DPDCH power of the connection to be power controlled" and the "SIR_{est} can be calculated as RSCP/ISCP, where RSCP refers to the received signal code power on one code and ISCP refers to the non-orthogonal interference signal code power of the received signal on one code." ETSI TS 125 214 V12.1.0 (2015-01) Annex B § B.2. The standard further explains that the base station sends a TPC (transmit power control) signal to the device, which is a data signal, that the device uses to estimate a desired SIR for setting its output power:

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APL-TOTDDE_00693077-84 at APL-TOTDDE_00693079. See also APL-TOTDDE_00690652-61 at APL-TOTDDE_00690654 (iPhone 13 Pro Max Technical Specifications: "CDMA EV-DO Rev. A (800, 1900 MHz) ... UMTS/HSPA+/DC-HSDPA (850, 900, 1700/2100, 1900, 2100 MHz)"); APL-TOTDDE_00690672-80 at APL-TOTDDE_00690674 (iPad mini (6th generation) - Technical Specifications: "UMTS/HSPA/HSPA+/DC-HSDPA (850, 900, 1700/2100, 1900, 2100 MHz)"); APL-TOTDDE_00690629-31 at APL-TOTDDE_00690630 (Apple Watch Series 3 – Technical Specifications: "Connectivity . . . LTE and UMTS"). See also APL-TOTDDE_00692725-32; APL-TOTDDE_00690599-605; APL-TOTDDE_00693085-92; APL-TOTDDE_00693069-76; APL-TOTDDE_00693183-84; APL-TOTDDE_00693181-82; APL-TOTDDE_00690632-41; APL-TOTDDE_00690662-71; APL-TOTDDE_00690642-51; APL-TOTDDE_00692431; APL-TOTDDE_00692432; APL-TOTDDE_00692027; APL-TOTDDE_00693151-57; APL-TOTDDE_00692018; APL-TOTDDE_00690621-28; APL-TOTDDE_00693144-50; APL-TOTDDE_00688425-27.

- 314. Exhibit E to my report includes a listing of schematics and bills of materials for the Apple/Qualcomm Accused Products that further show how these products include Qualcomm modems and other components that allow the products to operate on a 3G wireless cellular network.
- 315. The 3G standards, with which the Apple/Qualcomm Accused Products are advertised to comply, provide for methods of outer loop power control. For example, the UMTS requirements for outer loop power control are described in the following 3G technical specifications:

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14.9s Downlink power control

14.9.1 Generalities

This function is implemented in the UE in order to set the SIR target value on each CCTrCH used for the downlink power control. This SIR value shall be adjusted according to an autonomous function in the UE in order to achieve the same measured quality as the quality target set by UTRAN. The quality target is set as the transport channel BLER value for each transport channel as signalled by UTRAN.

When transport channel BLER is used the UE shall run a quality target control loop such that the quality requirement is met for each transport channel, which has been assigned a BLER target.

The UE shall set the SIR target when the physical channel has been set up or reconfigured. It shall not increase the SIR target value before the power control has converged on the current value. The UE may estimate whether the power control has converged on the current value, by comparing the averaged measured SIR to the SIR target value.

ETSI TS 125 331 V10.20.0 (2016-08) § 14.9.1 (TOT00000415-2340 at TOT00002240).

7.2.4.8 RF power control

This group of functions controls the level of the transmitted power in order to minimise interference and keep the quality of the connections. It consist of the following functions: UL Outer Loop Power Control, UL Inner Loop Power Control, UL Open Loop Power Control and DL Open Loop Power Control.

ETSI TS 125 401 V4.2.0 (2001-09) § 7.2.4.8 (TOT00000375-414 at TOT00000398).

Responding to a downlink TPC command, the UE shall change its uplink DPCH output power at the beginning of the first uplink pilot field after the TPC command reception. Responding to an uplink TPC command, the UTRAN access point shall change its DPCH output power at the beginning of the next downlink pilot field after the reception of the whole TPC command. Note that in soft handover, the TPC command is sent over one slot when DPC_MODE is 0 and over three slots when DPC_MODE is 1. Note also that the delay from the uplink TPC command reception to the power change timing is not specified for UTRAN. The UE shall decide and send TPC commands on the uplink based on the downlink SIR measurement. For the DPCH, the TPC command field on the uplink starts, when measured at the UE antenna, 512 chips after the end of the downlink pilot field. The UTRAN access point shall decide and send TPC commands based on the uplink SIR measurement. However, the SIR measurement periods are not specified either for UE nor UTRAN.

ETSI TS 125 214 V12.1.0 (2015-01) Annex B § B.1.

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B.2 Example of implementation in the UE

The downlink inner-loop power control adjusts the network transmit power in order to keep the received downlink SIR at a given SIR target, SIR_{target}. A higher layer outer loop adjusts SIR_{target} independently for each connection.

The UE should estimate the received downlink DPCCH/DPDCH power of the connection to be power controlled. Simultaneously, the UE should estimate the received interference and calculate the signal-to-interference ratio, SIR_{est}. SIR_{est} can be calculated as RSCP/ISCP, where RSCP refers to the received signal code power on one code and ISCP refers to the non-orthogonal interference signal code power of the received signal on one code. Note that due to the specific SIR target offsets described in [5] that can be applied during compressed frames, the spreading factor shall not be considered in the calculation of SIR_{est}.

The obtained SIR estimate SIR_{est} is then used by the UE to generate TPC commands according to the following rule: if $SIR_{est} > SIR_{target}$ then the TPC command to transmit is "0", requesting a transmit power decrease, while if $SIR_{est} < SIR_{target}$ then the TPC command to transmit is "1", requesting a transmit power increase.

When the UE is in soft handover, the UE should estimate SIRest from the downlink signals of all cells in the active set.

ETSI TS 125 214 V12.1.0 (2015-01) Annex B § B.2.

316. Qualcomm's U.S. Patent Application Pub. No. 2013/0072250 (TOT00116816-35) details aspects of the infringing outer loop power control algorithm as used in FDPCH mode of operation in the Apple/Qualcomm Accused Products. *See, e.g., id.* at [0062] – [0064], [0075], Fig. 6. FDPCH mode relates to the High Speed Downlink Packet Access (HSDPA) functionality in the 3G standard, which improves the data transfer rate between the base station and mobile device. *See id.* at [0074].

317. Other documents produced by Apple and Qualcomm that I have reviewed further confirm that the Apple/Qualcomm Accused Products practice an outer loop power control method as recited in claim 1. *See, e.g.*,

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•	318.				

- 319. I understand that defendants may rely on the claim construction argument that the preamble is limiting, to further argue that Accused Products do not infringe, because some of the code that TOT has identified as infringing is alleged to be part of the "inner loop" rather than the "outer loop." In the first instance, even if the preamble is limited to "outer loop," it is my opinion that the Accused Products literally infringe this claim. The functionality described herein that implements the claim elements is outer loop functionality. The software and firmware code described herein implements functions that both meet the claim elements, and are directed to the functioning of the CDMA power control "outer loop."
- 320. In the alternative, if the Court determines that the preamble is limiting, it is my opinion that the Accused Products infringe under the doctrine of equivalents because, even if relevant portions of the infringing code were deemed exclusively part of the inner loop—which they are not—the differences are a matter of semantics and are insubstantial. Inner and outer loop are both part of a broader power control algorithm and are inextricable in CDMA. Thus, whether particular functions fall within one area of code or another they nonetheless are part of a cohesive system. Moreover, as will be described below, the infringing code performs the same function as

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an outer loop algorithm would. As will be described in more detail below, the infringing code performs that functionality in the same way as an outer loop algorithm would. Finally, the infringing code reaches the same result as an outer loop power control algorithm would. Thus, in my opinion if the Court were to find that the preamble of claim 1 is limiting and it is found that the code identified as infringing below is part of the inner loop, the Accused Products nonetheless infringe under the doctrine of equivalents.

321. As I discuss below, each of the steps of the outer loop power control method recited in Claim 1 is performed when an Apple/Qualcomm Accused Product is powered on and used as intended (for example, by Apple personnel in the course of their testing, demonstration, and other use of the product, and/or by each and every end user).

b) [1.a] establishing a target block error rate (BLER_{target})

- 322. Element [1.a] in claim 1 recites "establishing a target block error rate (BLER_{target})." In my opinion, the Apple/Qualcomm Accused Products perform this step.
- 323. For example, based on the 3G standards, the method of outer loop power control performed by the c includes establishing a target block error rate. This is reflected in various 3G technical specifications, such as the following:

9 Measurements provided by the physical layer

One of the key services provided by the physical layer is the measurement of various quantities, which are used to trigger or perform a multitude of functions. Both the UE and the UTRAN are required to perform a variety of measurements. The standard will not specify the method to perform these measurements or stipulate that the list of measurements provided in this clause must all be performed. While some of the measurements are critical to the functioning of the network and are mandatory for delivering the basic functionality (e.g., handover measurements, power control measurements), others may be used by the network operators in optimising the network (e.g., radio environment).

ETSI TS 125 302 V15.0.0 (2018-07) § 9.

EXHIBIT 3

		-MN Document :	12993	u u	1/06/25 Page 41 of 111 PageID #:
09:47:04 1	IN THE UNITED STAT	TES DISTRICT COURT			
2	FOR THE DISTRICT (1	BLANK ROME, LLP
3	TOT POWER CONTROL, S.L.,)			BY: JOSHUA REISBERG, ESQ.
4	Plaintiff,	,))		2	BY: R. PAUL ZEINEDDIN, ESQ.
5	v.) C.A. No. 21-1302(MN)		3	BY: ANDREW R. KOPSIDAS, ESQ.
6	APPLE, INC.,))		3	Counsel for the Defendants
7	Defendant.)		4	Samsung Electronics Co., Ltd, et al.
8		j S		•	cambang Electronics self, Eta, et al.
9	TOT POWER CONTROL, S.L.,	,)		5	
10	Plaintiff,)) C.A. No. 21-1304(MN)		6	
11	v.)	10:00:53	7	
12	LG ELECTRONICS, INC., et al.,))	10:00:53	8	
13	Defendants.))	10:04:14	9	COURTROOM DEPUTY: All rise. The District Court
14	TOT POWER CONTROL, S.L.,	·))	10:04:14	10	for the District of Delaware is now in session. The
15	Plaintiff,))	10:04:15		Honorable Maryellen Noreika presiding.
16	v.) C.A. No. 21-1305(MN)	10:04:15		THE COURT: Good morning, everyone. Please be
17	SAMSUNG ELECTRONICS CO., LTD.,))	10:04:18	13	seated. All right. Let's start with some brief
18	et al.,	,))	10:04:21	14 15	introductions. MP_FARNAN: Good morning Your Honor Michael
19	Defendants.	;	10:04:23 10:04:27	16	MR. FARNAN: Good morning Your Honor. Michae Farnan for the plaintiff. With me today is Denise DeMory,
20	Wednesday, Septem	mber 25 2024	10:04:27	17	Michael Flynn-O'Brien and Gareth DeWalt from Bunsow DeMo
20	wednesday, septem 10:00 a.m. Markman Hearing		10:04:37	18	We also have from TOT, Alvaro Medrano and from Hausfeld,
22	Markman Hearing		10:04:44	19	LLP, Bruce Wecker.
	844 King Street		10:04:45	20	THE COURT: Good morning.
23	Wilmington, Delaw	ware	10:04:49	21	MR. CASTELLANO: Good morning, Your Honor. Je
24	BEFORE: THE HONORABLE MARYELL		10:04:51	22	Castellano from DLA Piper here on behalf of LG Electronics.
25	United States Distric	et Court Judge	10:04:55	23	I'm joined today by my colleague, Matt Satchwell, also from
			10:04:59	24	DLA Piper. We have two client representatives from Korea,
		2	10:04:59		DLA Piper. We have two client representatives from Korea, LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung.
1 Al	PPEARANCES:	2	10:05:03	25	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung.
	FARNAN LLP		10:05:03	25	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning.
2	FARNAN LLP BY: MICHAEL FARNAN,		10:05:03	25 1 2	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BIGGS: Good morning, Your Honor. Brian
2	FARNAN LLP BY: MICHAEL FARNAN, -and-		10:05:03	25	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning.
2 3 4	FARNAN LLP BY: MICHAEL FARNAN,	ESQ.	10:05:03 10:05:09 10:05:12	25 1 2	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BIGGS: Good morning, Your Honor. Brian
2 3 4 5	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENISE DE MORY, F BY: MICHAEL FLYNN-O'	ESQ. ESQ. BRIEN, ESQ.	10:05:03 10:05:09 10:05:12 10:05:15	25 1 2 3	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BIGGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA
2 3 4 5 6 7	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENISE DE MORY, E BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E	ESQ. ESQ. BRIEN, ESQ.	10:05:03 10:05:09 10:05:12 10:05:15 10:05:19	1 2 3 4	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BIGGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple
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2 3 4 5 6 7 8	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENISE DE MORY, E BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E	ESQ. ESQ. BRIEN, ESQ. ESQ.	10:05:03 10:05:09 10:05:12 10:05:19 10:05:24	1 2 3 4 5 6	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BIGGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple client represent, Tonya Manning. THE COURT: Good morning to all of you, also.
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2 3 4 5 6 7 8	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENI SE DE MORY, I BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E -and- HAUSFELD, LLP	ESQ. ESQ. 'BRI EN, ESQ. ESQ. R., ESQ.	10:05:03 10:05:09 10:05:12 10:05:15 10:05:19 10:05:24 10:05:28 10:05:29	1 2 3 4 5 6 7 8	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BI GGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple client represent, Tonya Manning. THE COURT: Good morning to all of you, also. MR. POFF: Good morning, Your Honor. Adam Pof on behalf of Samsung. From Blank Rome we have Joshua
2 3 4 5 6 7 8 9	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENI SE DE MORY, I BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E -and- HAUSFELD, LLP BY: WALTER KELLEY, JE	ESQ. ESQ. 'BRI EN, ESQ. ESQ. R., ESQ.	10:05:03 10:05:09 10:05:12 10:05:15 10:05:24 10:05:28 10:05:29 10:05:34	1 2 3 4 5 6 7 8 9	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BI GGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple client represent, Tonya Manning. THE COURT: Good morning to all of you, also. MR. POFF: Good morning, Your Honor. Adam Pof on behalf of Samsung. From Blank Rome we have Joshua Reisberg, Paul Zeineddin and Andrew Kopsidas. And from
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2 3 4 5 6 7 8 9 10 11	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENISE DE MORY, E BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E -and- HAUSFELD, LLP BY: WALTER KELLEY, JE Counsel for the PI DLA PIPER LLP BY: BRIAN A. BIGGS, ES	ESQ. ESQ. BRIEN, ESQ. ESQ. R., ESQ. Jaintiff	10:05:03 10:05:09 10:05:12 10:05:15 10:05:24 10:05:26 10:05:28 10:05:34 10:05:37	1 2 3 4 5 6 7 8 9 10	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BI GGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple client represent, Tonya Manning. THE COURT: Good morning to all of you, also. MR. POFF: Good morning, Your Honor. Adam Pof on behalf of Samsung. From Blank Rome we have Joshua Reisberg, Paul Zeineddin and Andrew Kopsidas. And from Samsung, Arbin Heidinger. And also from Young, Conaway, Alexis Stombaugh.
2 3 4 5 6 7 8 9 10 11 12	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENI SE DE MORY, I BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E -and- HAUSFELD, LLP BY: WALTER KELLEY, JR Counsel for the PI	ESQ. ESQ. BRIEN, ESQ. ESQ. R., ESQ. Jaintiff	10:05:03 10:05:09 10:05:12 10:05:15 10:05:24 10:05:26 10:05:28 10:05:37 10:05:44	1 2 3 4 5 6 7 8 9 10 11 12	THE COURT: All right. Good morning. MR. BI GGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple client represent, Tonya Manning. THE COURT: Good morning to all of you, also. MR. POFF: Good morning, Your Honor. Adam Pof on behalf of Samsung. From Blank Rome we have Joshua Reisberg, Paul Zeineddin and Andrew Kopsidas. And from Samsung, Arbin Heidinger. And also from Young, Conaway, Alexis Stombaugh. THE COURT: Good morning to all of you as well.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	FARNAN LLP BY: MICHAEL FARNAN, -and- BUNSOW DE MORY BY: DENISE DE MORY, I BY: MICHAEL FLYNN-O' BY: GARETH DEWALT, E -and- HAUSFELD, LLP BY: WALTER KELLEY, JF Counsel for the PI DLA PIPER LLP BY: BRIAN A. BIGGS, ES BY: ERIN P. GIBSON, ES	ESQ. ESQ. BRIEN, ESQ. ESQ. R., ESQ. laintiff SQ. SQ.	10:05:03 10:05:09 10:05:12 10:05:15 10:05:24 10:05:28 10:05:29 10:05:34 10:05:37 10:05:44 10:05:46 10:05:51	1 2 3 4 5 6 7 8 9 10 11 12 13 14	LG in Korea, Mr. Eun Suk Park and Mr. Kim Jaeseung. 4 THE COURT: All right. Good morning. MR. BIGGS: Good morning, Your Honor. Brian Biggs from DLA Piper on behalf of Apple. With me from DLA Piper is Erin Gibson and Tiffany Miller. We have an Apple client represent, Tonya Manning. THE COURT: Good morning to all of you, also. MR. POFF: Good morning, Your Honor. Adam Pof on behalf of Samsung. From Blank Rome we have Joshua Reisberg, Paul Zeineddin and Andrew Kopsidas. And from Samsung, Arbin Heidinger. And also from Young, Conaway, Alexis Stombaugh. THE COURT: Good morning to all of you as well. All right. So we are here for the claim construction. You had twelve terms in the brief. We asked
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10:06:45	about. I'm talking about the letter where you said you	10:09:21	MR. CASTELLANO: Yes, Your Honor.
10:06:48 2	withdrew it, but you withdrew it when you put a number 5 in	10:09:22 2	THE COURT: All right. Okay. So with that, I
10:06:52 3	front of it or number 6 in front of it in the brief, but the	10:09:25 3	will hear from Plaintiff first.
10:06:56 4	issue is still in with term two.	10:09:32 4	MS. DE MORY: Good morning, Your Honor. Denise
10:07:01 5	MS. DE MORY: So those are the slides that we	10:09:44 5	DeMory of Bunsow DeMory on behalf of TOT. We're going to
10:07:03 6	sent over yesterday morning that inadvertently included	10:09:49 6	start with the preambles of both of the claims. If could go
10:07:06 7	that.	10:09:53 7	to slide 2, slide 3, slide 4.
10:07:06 8	THE COURT: I'm not talking about the slide.	10:09:56 8	So the dispute here, as the Court is aware from
10:07:08 9	Mr. Castellano, you want to help me out?	10:10:00 9	the briefing, is whether or not the preamble is limiting.
10:07:12 10	MR. CASTELLANO: Sure. Yes, Your Honor. So the	10:10:04 10	LG and Samsung say that it is. Apple has taken no position
10:07:14 11	parties as you are well aware, the parties are not	10:10:09 11	
10:07:18 12	proposing to argue the	10:10:09 12	THE COURT: I know. And I appreciate you trying
10:07:20 13	THE COURT: I guess this is my problem. When	10:10:12 13	to orient me. I promise you, we have read these papers
10:07:22 14	are you planning to do it?	10:10:16 14	multiple times. We have read the patents. We have watched
10:07:24 15	MR. CASTELLANO: Well, we are planning to do it	10:10:19 15	your tutorials. So you don't have to tell me that they say
10:07:26 16	at the Court's	10:10:22 16	it's limiting and you say it's not. I do appreciate you
10:07:28 17	THE COURT: I'm not doing a second one so you	10:10:25 17	trying, but we got lots to do and this is a waste of time.
10:07:30 18	can do it today because you already briefed it. You told me	10:10:29 18	MS. DE MORY: Okay. Slide 5. So let's start
10:07:34 19	you withdrew it, but it's in another term.	10:10:32 19	before we even get to this. So we have really I think
10:07:37 20	MR. CASTELLANO: Maybe I can address that.	10:10:35 20	there is two issues going on here. The first is the
10:07:39 21	THE COURT: In order for me to address term two	10:10:39 21	preamble limitation. The second is really what I see in
10:07:42 22	and your dispute, I need to address the close to stuff that	10:10:42 22	Defendants' slide, what does it mean for the preamble to be
10:07:45 23	you pretended you withdrew, right?	10:10:45 23	a limitation. I think Defendants are wrong about
10:07:47 24	MR. CASTELLANO: Your Honor, I think that's not	10:10:48 24	THE COURT: Let's assume that it were a
10:07:49 25	quite right. The SIR_{req} term there is really a very, very	10:10:50 25	limitation. Does everybody agree what outer loop power

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narrow dispute about that. The dispute is whether there is lexicography and it doesn't implicate the indefiniteness position.

THE COURT: But in the brief, in the brief when you briefed that term, there were two parts of it, right? There was what it means and whether it's lexicography and also whether in that phrase it's indefinite. So you didn't actually -- and then you had a separate section that said close to or something like that. You withdrew that separate section, but you still had the arguments about close to in a different place in the brief.

10:08:31 12 MR. CASTELLANO: So there --

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10:08:32 13 THE COURT: So that's what we're arguing today. 10:08:34 14 We're arguing it today or else you give it up because I am 10:08:37 15 not dealing with another Markman hearing after you have done 10:08:41 16 it

10:08:41 17 MR. CASTELLANO: Okay. Thank you, Your Honor. 10:08:43 18 THE COURT: Okay. So that was my way of saying 10:08:46 19 that we're going to do -- the way I want to argue the terms 10:08:51 20 is I want the two preambles argued together because those 10:08:56 **21** are very similar arguments, then you can do the other terms 10:09:01 **22** of the '865 patent. Then you can do all of the "some" terms 10:09:11 23 together. And then the final term, the means-plus-function.

10:09:18 **24** Does that make sense? 10:09:20 25 MS. DE MORY: Yes, Your Honor. control means? Nobody briefed that. I was assuming that you all -- either it's a limitation and you know what it means or it's not a limitation and who cares

MS. DE MORY: I mean --

5 THE COURT: Everybody agrees what outer loop 6 power control means?

MS. DE MORY: I think everybody agrees.

THE COURT: What does it mean?

MS. DE MORY: I think it means setting the

SIRtarget, that's what the outer loop power control does.

THE COURT: Does everybody on the Defendants'

10:11:22 12 side agree to that?

MR. REISBERG: It's tough to say --

10:11:24 13 10:11:27 14 THE COURT: No, it's not tough to say. You 10:11:29 15 didn't brief what it means. You say it's limiting. If it's 10:11:32 16 limiting it has to have a meaning and since no one is asking 10:11:35 17 me to construe it, I assume that you all talked and you 10:11:38 18 agree what that meaning is. She told you what she thinks it 10:11:41 19 is. What do you say?

> MR. REISBERG: Outer loop power control is one of two methods of power control in 3G that is geared solely with the setting and modification of ${\rm SIR}_{\mbox{target}^{\prime}}$ yes, we agree.

> > THE COURT: Do you agree with that?

MS. DE MORY: I don't know about solely. It's a power control method --

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1 10:11:58 THE COURT: Why don't you guys talk. Don't sit 10:16:42 2 here and talk with me. You guys talk and agree on what it 10:16:45 10:12:01 3 means because you did not brief it, so go agree on what it 10:16:50 10:12:06 4 means 10:16:56 10:12:10 5 (Counsel conferring.) 10:14:07 10:16:59 6 THE COURT: All right. Where are we? 10:17:04 10:14:07 7 MS. DE MORY: So we think we are agreed that it 10:17:10 10:14:09 8 is a process of setting SIR target to maintain --10:17:16 10:14:17 9 THE COURT: Hold on, process of setting SIRtargets 10:17:20 10:14:21 10 10:17:24 10 10:14:25 10:14:25 11 10:17:30 11 MS. DE MORY: To maintain a preset quality 10:14:28 12 objective. 10:17:34 12 10:14:29 13 THE COURT: To maintain a preset quality of 10:17:39 13 10:14:33 14 what? 10:17:43 14 10:14:33 15 10:17:47 15 MS. DE MORY: Objective. 10:14:40 16 10:17:50 16 THE COURT: Objective. 10:17:53 17 10:14:41 17 You guys agree on the Defendants' side. 10:14:43 18 10:17:55 18 MR. REISBERG: Yes, Your Honor. 10:14:44 19 10:17:56 19 THE COURT: Are you already in expert discovery? 10:14:47 **20** 10:18:02 **20** MS. DE MORY: Actually yes, we are. Rebuttal 10:14:51 **21** 10:18:07 21 reports are due on Friday. 10:14:52 **22** 10:18:13 22 THE COURT: Is that consistent with how folks 10:14:55 **23** have used it so I'm not going to get Daubert motions that 10:18:16 23 10:14:59 **24** 10:18:21 24 say if I find this to be limiting, the expert didn't use

Now, in order to do that comparison, it has to figure out what it actually receives. So somewhere, it doesn't matter for purposes of this patent at all, at some

is meeting this criteria that's been set by the outer loop.

4 5 point in the receiver, the receiver must actually estimate 6 the signal that it receives. And then it must also compare.

And if we go to the next slide, slide 9, one of the things that can happen in outer loop power control which we all I think also agree on, is that something called wind-up can occur. And wind-up occurs when in certain conditions when the signal cannot -- the receive signal cannot follow the target. So there are certain times when you just cannot get enough power, the base station is maxed out, you're in a tunnel, whatever it is, you can't follow it. There is a situation called wind-up.

We were in column 2, line 65, which is all the prior art. There is nothing in the patents that changes what was happening here.

All the patent relates to is what happens when the phone is in wind-up and the phone exits wind-up. And so in the prior art, we say when it exits wind-up there were various things that the prior art did, most notably, for example, one of the prior art just goes back and starts dropping the power down -- we talked about this the last time we were here -- like a ladder, a stair step.

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1 agrees, everybody's experts are going to use this and have 10:15:06 2 already used this? 10:15:09 3 MR. SATCHWELL: For LG, yes, Your Honor. 10:15:10 4 MR. REISBERG: Yes, Your Honor. 10:15:13

this correctly. Am I going to get that or not? Everybody

10:15:02 **25**

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MS. GIBSON: Apple, yes, Your Honor. THE COURT: So with that understanding of what

it means, now you can go through your argument as to why it's limiting or not.

MS. DE MORY: Okay. So let's just skip to slide 88. That was not cast, that was we all agree there are three types of power control in 3G standard and in all the phones that we're talking about and in the specification on the preceding slides which are in my deck from 4 to 7, it describes these three different types of power control. And this is all part of the prior art. The patent is not concerned with changing this, doing anything to change outer loop power control as it exist as we just defined it. It's just we have these three different types of power controls.

Now, the inner loop, for example, if we start here, it compares the SIR received to the target that was set by the outer loop. So these things work together. So you have an outer loop that sets the target, trying to maintain some error rate so you don't miss words in a call. And then the inner loop is checking very frequently to see if what it's getting, the quality of the signal it's getting

1 The novelty of this invention is just in the --2 for outer loop power control, when you exit wind-up, you do 3 something different than what the prior art shows. That's 4 it. That's all we're talking about.

5 And it doesn't -- so part of this is, in order 6 to figure out if you're in wind-up, for example, you must 7 detect if you're in wind-up, but that's not something --8 there are ways of detecting wind-up in the prior art. 9 That's not a critical feature of it. How you estimate SIR, 10:19:03 10 that's not a feature. What happens, how it detects it, none 10:19:07 11 of that is about this invention. This invention is as 10:19:09 12 described in one of the documents that they point to in the 10:19:12 13 IPR, it's narrowly focused on what happens when you exit 10:19:17 14 wind-up, and how is that different than what happened before 10:19:20 15 it and why is that novel?

> So if we go to the next slide. Let's talk about how does the preamble become limiting. So just go back for one second

So we're concerned about what happens with what concerns wind-up. So I said at the beginning of this, there is really two questions here. Is the preamble limiting? And secondarily, even if it was, what does it mean? And I think that's like where the whole -- what you're really going to hear from Defendants is a non-infringement argument that goes like this. If the preamble is a limitation, then

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1 13:50:33 THE COURT: I don't know. 13:53:03 order that said do both constructions and what was 2 2 MS. DE MORY: I do believe we submitted some 13:53:06 reasonably foreseeable. That's one aspect --13:50:34 3 3 e-mails suggesting that these issues were to be discussed 13:53:08 THE COURT: Do both constructions and what is 13:50:36 4 4 and we got an oral order saying be prepared to discuss them. reasonably foreseeable is what you should have done in your 13:53:11 13:50:40 5 Sorry, I'm fading 13:53:15 5 contentions, so that's not changed; correct? 13:50:44 6 6 THE COURT: I know that, I know exactly what I MS. DE MORY: Correct. Mr. Biggs, I think we 13:53:17 13:50:45 7 7 did, I'm just trying to figure out what makes sense. 13:53:19 agree on a lot of things. It did not say doctrine of 13:50:48 8 MS. DE MORY: I think the reports are due in two 8 equivalents and they said in their non-infringement 13:50:54 13:53:24 9 9 contentions that they were going to assert that the preamble days, so I don't think there is a lot to change, there is a 13:53:26 13:50:56 10 lot to process from here. I don't know if we can have 13:53:28 10 is limiting. This only goes to the preamble is a limiting 13:51:00 11 13:53:31 11 further discussions or what makes sense. issue. What has happened since then is Apple produced a 13:51:04 13:51:06 12 THE COURT: What do you think, Mr. Biggs? 13:53:35 12 significant number of documents that we talked about last 13:51:08 13 MR. BIGGS: Your Honor, the one motion to strike 13:53:38 13 time we were here and depositions have taken place and now 13:51:11 14 13:53:41 14 that the Defendants -we have like a morphing of the argument which is a little 13:51:12 15 13:53:46 15 bit of what we talked about today that what goes in what THE COURT: The one motion. How many are there? 13:51:15 16 13:53:48 16 Just one? box, what's hardware, what's software, what goes where. 13:51:16 17 MR_BLGGS: So I believe Plaintiff raised a 13:53:51 17 We took a deposition in August like days before 13:51:17 18 13:53:53 18 motion, Defendants jointly raised a motion. There was a we do our report where the positions from their 13:51:20 19 13:53:57 19 third motion that was Apple specific that Apple has non-infringement contentions sort of morphed, and so it's 13:51:24 **20** 13:54:02 **20** withdrawn meant to capture that. I think it's something that if the 13:51:24 **21** 13:54:05 21 THE COURT: Good for Apple. -- if we put the deposition before you and it was briefed we 13:51:26 **22** 13:54:08 22 MR. BIGGS: There is one Defendant side motion could figure out -- you know, there is no question that it 13:51:29 **23** 13:54:11 23 which is very discrete. There are new doctrine of was not in the contentions at that time, that's what's 13:51:32 24 13:54:15 24 equivalents theories in opening infringement reports. They changed is sort of our read of a new position from what 13:51:35 25 were not in final infringement contentions. I think we can 13:54:18 25 happened in those depositions

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address that quickly. If we do that, that mitigates the prejudice that Apple and Samsung would have to respond to those rebuttal records

THE COURT: I'm not going to decide one motion and not the other

6 What's the basis of your motion? 13:51:50

those should be stricken.

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13:53:00 **25**

MS. DE MORY: Our motion is a motion to strike a portion of the Samsung expert report on invalidity in which they have included in their invalidity -- in their invalidity reports references that were not previously disclosed, obviousness arguments that were not previously disclosed. And in particular an anticipation reference based on testing some phones that they acquired back in February and the test results were not disclosed during discovery. And so we're now in this period where we have like three weeks to try to figure this out. That's the basis for our motion. But we're two days away. So we think

THE COURT: So with respect to the doctrine of equivalents, was that in your contentions?

MS. DE MORY: The doctrine of equivalents was not in our contentions. There were two things that have changed since those contentions. First, the Court's order to do whatever is reasonably foreseeable. The Markman

hearing was scheduled and then it was moved and there was an

THE COURT: Do you think that Defendants changed its positions from what it disclosed in its contentions, its non-infringement contentions?

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MS. DE MORY: Right. They definitely said the preamble is limiting. And they definitely had this theory about what is inner loop and outer loop. What's changed is that in these depositions now all of a sudden it's tied to hardware. We're not just talking about what boxes are there, but whether or not something is implemented in a DSP or another processor. That's the gist of it. It's trying to preserve that. Maybe ultimately it all just falls by the wayside. I don't even think that the interpretation of the preamble is right as we talked about, but that's what we believe has changed

MR. BIGGS: Your Honor, I'm happy to cut to the chase. It sounds like we're all in agreement that this was not disclosed in final contentions. There was an August 17, 2022, order in this case, in all three cases that in your final contentions you had to account for both parties' constructions

THE COURT: She says you are now arguing 13:55:33 **22** something that wasn't appropriately disclosed in the 13:55:36 23 contentions and, therefore, they're just trying to adjust. 13:55:39 24

MR. BIGGS: Your Honor, this is the first I'm

13:55:41 **25** hearing about that

13:55:41 1	THE COURT: Why don't you guys go back and talk
13:55:44 2	about it. Because it seems like I'm not going to sit
13:55:47 3	here and do your meet and confer if you didn't bother to get
13:55:50 4	that out. What I am going to do is for both sides, show
13:55:53 5	where you disclosed it. If you think it's new, show where
13:55:56 6	you think it's new and try to go back and figure these
13:56:01 7	motions out.
13:56:03	MR. BIGGS: Your Honor, if I may just very
13:56:06 9	briefly, I apologize, I'm not asking you to change that.
13:56:10 10	That would only apply to Apple, I believe, not LG and
13:56:13 11	Samsung. She was talking about something that occurred in
13:56:15 12	the Apple case, but we will follow Your Honor's direction on
13:56:18 13	that.
13:56:18 14	Thank you.
13:56:19 15	THE COURT: All right. Thank you.
13:56:21 16	COURTROOM DEPUTY: All rise.
17	(Court adjourned at 1:56 p.m.)
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19	I hereby certify the foregoing is a true and
	accurate transcript from my stenographic notes in the proceeding.
20	
21	/s/ Dale C. Hawkins
	Official Court Reporter
22	U.S. District Court
23	
24	
25	

EXHIBIT 4

Curtis, Karen

From: Gareth DeWalt <gdewalt@bdiplaw.com>
Sent: Wednesday, October 9, 2024 4:54 PM

To: Biggs, Brian; Castellano, Jeff; Hillary Bunsow; Strapp, Michael G.; Reisberg, Josh S.;

TOT_Power; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power; DLA-Apple-TOT-Power;

CM-200771-00603-BlankRome-Samsung-TOT-Power; Adam W. Poff (apoff@ycst.com)

Subject: Re: Request for meet & confer re Qualcomm MSM6250

Follow Up Flag: Follow up Flag Status: Flagged

A EX Brian,

▲ EXTERNAL MESSAGE

On your first question, Dr. Larson makes factual statements that the relevant portions of the infringing code are not exclusively part of the inner loop, that inner and outer loop are both part of a broader power control algorithm and are inextricable in CDMA, and that they are part of a cohesive system. Those statements stand on their own above and beyond the doctrine of equivalents opinions Dr. Larson provides and are not withdrawn.

With respect to your second question, we will withdraw paragraph 320 to the same extent as paragraph 115.

As to your third question, we confirm that paragraphs 115 and 320 are also withdrawn with respect to claim 5 of the '865 patent and claim 1 of the '376 patent.

As to the last paragraphs, the Court was clear at the *Markman* hearing that both sides were to show where they disclosed the arguments in question, and TOT's questions were thus pursuant to the Court's direction:

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13:56:01 7

about it. Because it seems like -- I'm not going here and do your meet and confer if you didn't bot that out. What I am going to do is for both side: where you disclosed it. If you think it's new, slyou think it's new and try to go back and figure to motions out.

Regards, Gareth

From: Biggs, Brian <Brian.Biggs@us.dlapiper.com> Sent: Wednesday, October 9, 2024 11:02 AM

To: Castellano, Jeff <Jeff.Castellano@us.dlapiper.com>; Gareth DeWalt <gdewalt@bdiplaw.com>; Hillary Bunsow <hillarybunsow@bdiplaw.com>; Strapp, Michael G. <Michael.Strapp@us.dlapiper.com>; Reisberg, Josh S. <Josh.Reisberg@BlankRome.com>; TOT_Power <BDIP_TOT_Power@bdiplaw.com>; TOTHausfeldTeam@hausfeld.com <TOTHausfeldTeam@hausfeld.com>; bfarnan@farnanlaw.com <bfarnan@farnanlaw.com>; mfarnan@farnanlaw.com <mfarnan@farnanlaw.com>; DLA-LGE-TOT-Power <DLA-LGE-TOT-Power@us.dlapiper.com>; DLA-Apple-TOT-Power <DLA-Apple-TOT-Power@us.dlapiper.com>; CM-200771-00603-BlankRome-Samsung-TOT-Power <BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

[EXTERNAL]

Gareth,

Thank you for your email. On behalf of Apple, similar to LGE, we have a couple of questions:

- 1. Your proposal states TOT will withdraw "the portions of paragraph 115 from Dr. Larson's Opening Report as to Apple . . . relating to the doctrine of equivalents," but that entire paragraph relates solely to Dr. Larson's DOE opinion. Is TOT withdrawing the entire paragraph, or is it seeking to retain any of the paragraph? On behalf of Apple, we believe the entire paragraph should be withdrawn. If TOT's proposal is only to withdraw portions, please explain what TOT is and is not agreeing to withdraw.
- 2. You only identify paragraph 115 below for Apple, which discloses Dr. Larson's preamble DOE opinion for the '865 patent, but Dr. Larson also provided untimely DOE opinions if the preamble is limiting for the '376 patent, at paragraph 320. Can you please confirm whether TOT is also withdrawing paragraph 320 from Dr. Larson's opening report and, if it is not, why TOT is refusing to withdraw the paragraphs?
- 3. Can you please also confirm that by withdrawing the DOE opinions in paragraph 115, which relates to the '865 claim 1 preamble, TOT is agreeing that Dr. Larson will not raise his preamble DOE opinion with respect to the preamble for claim 5 of the '865 patent. At paragraph 185 in the Apple report, Dr. Larson incorporates by reference his opinions in the preamble for claim 1. We expect that by withdrawing DOE from paragraph 115, Dr. Larson will not attempt to raise a DOE theory for the preamble of claim 5, and the same would be true if Dr. Larson withdraws his DOE theory for claim 1 of the '376 patent, but please confirm.

While TOT's withdrawal may supersede your Saturday (10/5) email with respect to Apple, we need to address that briefly. Your question to Apple about whether it raised noninfringement contentions misses the point. TOT never raised a DOE theory for the preambles prior to Dr. Larson's opening report, making it untimely, and TOT bears the burden to demonstrate infringement. Whether Apple disclosed a noninfringement defense is irrelevant to whether TOT was required to disclose any DOE theory on which it was intending to rely. It is TOT's obligation, then, and not Apple's, to explain why it should be allowed to raise untimely infringement theories, or why it believes its untimely theories should not be stricken. If TOT's responses to #1, #2 and #3 above are not unequivocal withdrawals of Dr. Larson's preamble DOE theories for both patents and for all independent claims, TOT must explain its justification for its untimely disclosure.

Further, the question you raised in your email is inconsistent with TOT's concession at the *Markman* hearing. TOT agreed that defendants "definitely said the preamble is limiting" and "definitely had this theory about what is inner loop and outer loop." 124:4-6. TOT has already conceded that Defendants disclosed their noninfringement position based

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on whether certain functions are performed in the inner loop or outer loop. And Apple certainly disclosed these theories in its Final Noninfringement Contentions at, e.g., pp. 11, 15-16, 27, 33-34, 36, 39.

We look forward to your response, and we join LGE's request for a meet and confer later this week.

Best regards, Brian

Brian Biggs

Partner

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DLA Piper LLP (US) dlapiper.com

From: Castellano, Jeff < Jeff. Castellano@us.dlapiper.com>

Sent: Wednesday, October 9, 2024 12:19 PM

To: Gareth DeWalt <gdewalt@bdiplaw.com>; Biggs, Brian <Brian.Biggs@us.dlapiper.com>; Hillary Bunsow <hillarybunsow@bdiplaw.com>; Strapp, Michael G. <Michael.Strapp@us.dlapiper.com>; Reisberg, Josh S. <Josh.Reisberg@BlankRome.com>; TOT_Power <BDIP_TOT_Power@bdiplaw.com>; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power <DLA-LGE-TOT-Power@us.dlapiper.com>; DLA-Apple-TOT-Power@us.dlapiper.com>; CM-200771-00603-BlankRome-Samsung-TOT-Power <BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) apoff@ycst.com> Subject: RE: Request for meet & confer re Qualcomm MSM6250

Gareth,

Thank you for your email. LGE would like to discuss your response on a meet and confer this week to confirm we are on the same page. When is your team available on Thursday afternoon or on Friday of this week?

On behalf of LGE, we have a few questions:

- 1. Your proposal states TOT will withdraw "the portions of . . . paragraph 112 from Dr. Larson's Opening Report as to LG . . . relating to the doctrine of equivalents," but that entire paragraph relates to Dr. Larson's DOE opinion. The entire paragraph should be withdrawn. Is TOT withdrawing the entire paragraph? If TOT's proposal is only to withdraw portions, please explain what TOT is and is not agreeing to withdraw.
- 2. You only identify paragraph 112 for LGE, which discloses Dr. Larson's preamble DOE opinion for the '865 patent, but Dr. Larson also provided untimely DOE opinions if the preamble is limiting for the '376 patent, at paragraph 213. Can you please confirm whether TOT is also agreeing to withdraw that paragraph from Dr. Larson's opening report?
- 3. Can you please also confirm that by withdrawing the DOE opinions in paragraph 112, which relates to the '865 claim 1 preamble, TOT is agreeing that Dr. Larson will not raise his preamble DOE opinion with respect to the preamble for claim 5 of the '865 patent? Similarly, if TOT withdraws Dr. Larson's DOE theory for claim 1 of the '376 patent, we expect that means Dr.

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Larson will not raise a preamble DOE theory for the other asserted independent claims, but please confirm.

If you could please provide your responses to the each of these questions in advance of the meet and confer, we may be able to take it off calendar, or at least it will streamline the discussion.

Best, Jeff

Ieff Castellano

Of Counsel

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DLA Piper LLP (US) dlapiper.com

From: Gareth DeWalt <gdewalt@bdiplaw.com>

Sent: Monday, October 7, 2024 10:10 PM

To: Biggs, Brian <Brian.Biggs@us.dlapiper.com>; Hillary Bunsow <hillarybunsow@bdiplaw.com>; Strapp, Michael G. <Michael.Strapp@us.dlapiper.com>; Castellano, Jeff <Jeff.Castellano@us.dlapiper.com>; Reisberg, Josh S. <Josh.Reisberg@BlankRome.com>; TOT Power <BDIP TOT Power@bdiplaw.com>; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power < DLA-LGE-TOT-Power@us.dlapiper.com>; DLA-Apple-TOT-Power < DLA-Apple-TOT-Power@us.dlapiper.com>; CM-200771-00603-BlankRome-Samsung-TOT-Power <BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) <apoff@ycst.com>

Subject: Re: Request for meet & confer re Qualcomm MSM6250

▲ EXTERNAL MESSAGE

Brian,

TOT does not agree that Dr. Larson's Opening Report violated, in any way, the Court's August 17, 2022 order. However, in the interest of narrowing the issues, TOT will withdraw the portions of paragraph 115 from Dr. Larson's Opening Report as to Apple, paragraph 112 from Dr. Larson's Opening Report as to LG, and paragraph 110 from Dr. Larson's Opening Report as to Samsung relating to the doctrine of equivalents. TOT reserves the right to have Dr. Larson opine in his Reply Report on aspects of the Court's constructions of terms that were not previously presented by the parties. Dr. Larson may address any new constructions to the extent they affect the opinions presented in his Opening Report, including opinions involving the doctrine of equivalents.

Regards, Gareth

From: Biggs, Brian < Brian. Biggs@us.dlapiper.com >

Sent: Wednesday, October 2, 2024 6:15 AM

To: Hillary Bunsow hillarybunsow@bdiplaw.com; Strapp, Michael G. Michael.Strapp@us.dlapiper.com; Castellano,

Jeff < Jeff. Castellano@us.dlapiper.com>; Reisberg, Josh S. < Josh.Reisberg@BlankRome.com>; TOT Power <BDIP TOT Power@bdiplaw.com>; TOTHausfeldTeam@hausfeld.com <TOTHausfeldTeam@hausfeld.com>;

Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 51 of 111 PageID #: 13003

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Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

[EXTERNAL]

Denise and Hillary,

Following up on last week's hearing, please provide by no later than Monday, 10/7 TOT's justification for including new DOE theories for the preambles of the asserted claims in Dr. Larson's opening infringement reports. We now understand that TOT agrees it did not disclose the theories in its final infringement contentions, which is helpful, but we need to understand TOT's basis for why it believes it can add DOE theories in violation of the Court's August 17, 2022 order requiring TOT to disclose theories based on competing constructions.

To the extent TOT does not withdraw the paragraphs in dispute, please let us know when you are available to meet and confer on this dispute on **Tuesday or Wednesday** of next week.

Best regards, Brian

Brian Biggs

Partner

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DLA Piper LLP (US) dlapiper.com

From: Biggs, Brian

Sent: Tuesday, September 24, 2024 4:08 PM

To: Hillary Bunsow <hillarybunsow@bdiplaw.com">hillarybunsow@bdiplaw.com; Strapp, Michael G. <Michael G. <Michael G. <hillarybunsow@bdiplaw.com; Reisberg, Josh S. <Josh.Reisberg@BlankRome.com; TOT_Power
BlankRome.com; TOT_Power
DLA-LGE-TOT-Power@us.dlapiper.com); DLA-Apple-TOT-Power BlankRome-Samsung-TOT-Power BlankRome-Samsung-TOT-Power@BlankRome-Samsung-TOT-Power@BlankRome.com">BlankRome-Samsung-TOT-Power@BlankRome.com); Adam W. Poff (apoff@ycst.com) apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

Dear Hillary,

In an effort to streamline tomorrow's proceedings and reduce the number of disputes before the Judge, Apple will not raise its motion to strike related to the iPhone 4S and date of first infringement opinions by Dr. Larson. Apple reserves all rights to raise the issue and other objections to Dr. Larson's opinions in the future, including in summary judgment and *Daubert* motions.

Best regards, Brian

Brian Biggs

Partner

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DLA Piper LLP (US) dlapiper.com

From: Hillary Bunsow hillarybunsow@bdiplaw.com

Sent: Friday, September 20, 2024 1:06 PM

To: Biggs, Brian <Brian.Biggs@us.dlapiper.com>; Strapp, Michael G. <Michael.Strapp@us.dlapiper.com>; Castellano, Jeff

 $< \underline{\tt Josh.Reisberg@BlankRome.com} >; \ Reisberg, \ Josh \ S. < \underline{\tt Josh.Reisberg@BlankRome.com} >; \ TOT_Power \\ = \underbrace{\tt TOT_Power} \\ = \underbrace{\tt TOT_P$

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Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

EXTERNAL MESSAGE

Brian,

This is fine. Thanks



Hillary N. Bunsow

Senior Associate & Pro Bono Coordinator

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From: Biggs, Brian < Brian. Biggs@us.dlapiper.com >

Sent: Friday, September 20, 2024 8:25 AM

To: Hillary Bunsow < hillarybunsow@bdiplaw.com >; Strapp, Michael G. < Michael.Strapp@us.dlapiper.com >; Castellano,

 ${\sf Jeff.Castellano@us.dlapiper.com}{\gt;} \ {\sf Reisberg, Josh S. < \underline{Josh.Reisberg@BlankRome.com}}{\gt;} \ {\sf TOT_Power}$

<BDIP_TOT_Power@bdiplaw.com>; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com;

 $\underline{mfarnan@farnanlaw.com}; DLA-LGE-TOT-Power < \underline{DLA-LGE-TOT-Power@us.dlapiper.com} >; DLA-Apple-TOT-Power < \underline{DLA-LGE-TOT-Power@us.dlapiper.com} >; DLA-Apple-TOT-Power@us.dlapiper.com >; DLA-LGE-TOT-Power@us.dlapiper.com >; DLA-LGE-TOT-Power@us.dlapipe$

<u>Apple-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-BlankRome-Samsung-TOT-Power < <u>BlankRome-Samsung-TOT-</u>

Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

[EXTERNAL]

Hillary,

Thank you again for the meet and confer yesterday. I understand you've approved an email to the Court that Samsung sent you. We have modified that email (below) to add the Apple-specific motion, too.

Dear Ms. Welham,

In addition to the dispute identified below, the parties respectfully request a discovery hearing on striking DOE opinions from Plaintiff's infringement expert reports. Apple also seeks to strike Plaintiff's expert's opinions related to date of first infringement.

This issue affects defendants' rebuttal expert reports due on September 27, 2024.

Respectfully,

Please confirm we are clear to send this to Chambers in view of the impasses reached yesterday. We will get you the specific paragraphs Apple seeks to strike regarding the iPhone 4S/first infringement issue.

Best, Brian

Brian Biggs

Partner

T +1 302 468 5661 F +1 302 778 7813 M +1 302 388 6903 brian.biggs@us.dlapiper.com

DLA Piper LLP (US) dlapiper.com

From: Hillary Bunsow < hillarybunsow@bdiplaw.com >

Sent: Thursday, September 19, 2024 10:09 AM

To: Strapp, Michael G. < <u>Michael.Strapp@us.dlapiper.com</u>>; Castellano, Jeff < <u>Jeff.Castellano@us.dlapiper.com</u>>; Reisberg, Josh S. < Josh.Reisberg@BlankRome.com>; TOT_Power < BDIP_TOT_Power@bdiplaw.com>;

BlankRome-Samsung-TOT-Power <BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff

(apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

A

EXTERNAL MESSAGE

Jeff and Michael,

TOT will not pursue the motion to strike discussed below against Apple and LG at this time, in reliance on Apple and LG's representations that they will not assert that the reference anticipates the asserted claims or renders the asserted claims obvious in combination with other prior art references. Should Apple or LG make such contentions based on MSM6250 in the future, TOT reserves the right to renew its motion to strike.



Hillary N. Bunsow

Senior Associate & Pro Bono Coordinator

Bunsow De Mory LLP
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From: Strapp, Michael G. < Michael. Strapp@us.dlapiper.com >

Sent: Wednesday, September 18, 2024 10:41 AM

To: Castellano, Jeff < Jeff.Castellano@us.dlapiper.com >; Hillary Bunsow < hillarybunsow@bdiplaw.com >; Reisberg, Josh S. < Josh.Reisberg@BlankRome.com >; TOT_Power < BDIP_TOT_Power@bdiplaw.com >; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power < DLA-LGE-TOT-Power@us.dlapiper.com >; DLA-Apple-TOT-Power@us.dlapiper.com >; CM-200771-00603-BlankRome-Samsung-TOT-Power@lankRome.com >; Adam W. Poff (apoff@ycst.com) < apoff@ycst.com >

Subject: RE: Request for meet & confer re Qualcomm MSM6250

[EXTERNAL]

Hillary,

Apple will agree not to rely on the Qualcomm MSM6250 chip as an asserted prior art reference, which means Apple will not assert that it anticipates the asserted claims or renders the asserted claims obvious in combination with other prior art references. Apple reserves the right to rely on the chip in connection with Dr. Stark's opinions that the reference discloses certain claim elements for purposes of Graham factor analysis, noninfringing alternatives, and other damages or scope of invention issues.

Like LGE, Apple also does not approve of TOT sending the email you have drafted to the Court.

Regards,

Michael

Michael Strapp

Partner

T +1 617 406 6031 F +1 617 406 6174 M +1 917 518 3828 michael.strapp@us.dlapiper.com

DLA Piper LLP (US) dlapiper.com

From: Castellano, Jeff < Jeff.Castellano@us.dlapiper.com >

Sent: Wednesday, September 18, 2024 1:19 PM

To: Hillary Bunsow < hillarybunsow@bdiplaw.com>; Reisberg, Josh S. Josh.Reisberg@BlankRome.com>; Strapp, Michael G. Michael.Strapp@us.dlapiper.com>; TOT Power BDIP TOT Power@bdiplaw.com>;

<u>TOTHausfeldTeam@hausfeld.com</u>; <u>bfarnan@farnanlaw.com</u>; <u>mfarnan@farnanlaw.com</u>; <u>DLA-LGE-TOT-Power < DLA-LGE-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-BlankRome-Samsung-TOT-Power <BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff

(apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

Hillary,

LGE is willing to confirm that it does not intend to rely on the Qualcomm MSM6200/6250 and associated Qualcomm source code as asserted prior art that anticipates the asserted claims, or as asserted prior art in combination with other references that renders the asserted claims obvious, if TOT will drop its motion to strike as it pertains to LGE.

To be clear, we do not approve sending the below email. Please let us know if you would like to discuss.

Best, Jeff

Jeff Castellano

Of Counsel

T +1 302 468 5671 F +1 302 691 4771 M +1 570 814 9591 jeff.castellano@us.dlapiper.com

DLA Piper LLP (US) dlapiper.com

From: Hillary Bunsow < hillarybunsow@bdiplaw.com>

Sent: Wednesday, September 18, 2024 1:25 AM

To: Reisberg, Josh S. <<u>Josh.Reisberg@BlankRome.com</u>>; Castellano, Jeff <<u>Jeff.Castellano@us.dlapiper.com</u>>; Strapp, Michael G. <<u>Michael.Strapp@us.dlapiper.com</u>>; TOT_Power <<u>BDIP_TOT_Power@bdiplaw.com</u>>; <u>TOTHausfeldTeam@hausfeld.com</u>; <u>bfarnan@farnanlaw.com</u>; <u>mfarnan@farnanlaw.com</u>; <u>DLA-LGE-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-

BlankRome-Samsung-TOT-Power <<u>BlankRome-Samsung-TOT-Power@BlankRome.com</u>>; Adam W. Poff (apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

EXTERNAL MESSAGE

Counsel:

We will be sending this email to the court tomorrow (Wednesday). Please send us any additions by 5 pm EST.

Dear Ms. Welham,

Plaintiff TOT Power Control, S.L. and Defendants LG Electronics USA, Inc., LG Electronics, Inc., Apple Inc., Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. respectfully request a discovery hearing on striking from Defendants' expert reports any invalidity opinions relating to the Qualcomm MSM6250 chip.

This issue affects TOT's rebuttal expert reports due on September 27, 2024.

@Jeff: You asked on the meet and confer today whether, if LG agrees not to advance invalidity theories based on the MSM6250 chip, such agreement would moot the dispute that is the subject of TOT's motion to strike. As mentioned, we will consider any proposal you send. Please send any such proposal ASAP so we can consider.

Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 56 of 111 PageID #: 13008

@Josh: We do not agree that the DOE issue should be submitted to the court with TOT's request. TOT just received Defendants' positions this morning, which we are still investigating. And we do not agree that this morning's meet and confer satisfied the conferral obligations—which I explicitly stated on the call.



Hillary N. Bunsow

Senior Associate & Pro Bono Coordinator

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From: Reisberg, Josh S. < Josh. Reisberg@BlankRome.com>

Sent: Tuesday, September 17, 2024 5:30 PM

To: Castellano, Jeff < <u>Jeff.Castellano@us.dlapiper.com</u>>; Hillary Bunsow < <u>hillarybunsow@bdiplaw.com</u>>; Strapp, Michael G. < Michael.Strapp@us.dlapiper.com>; TOT Power < BDIP TOT Power@bdiplaw.com>;

<u>TOTHausfeldTeam@hausfeld.com</u>; <u>bfarnan@farnanlaw.com</u>; <u>mfarnan@farnanlaw.com</u>; <u>DLA-LGE-TOT-Power < DLA-LGE-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-

 $BlankRome-Samsung-TOT-Power < \underline{BlankRome-Samsung-TOT-Power@BlankRome.com} >; Adam \ W. \ Poff$

(apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

[EXTERNAL]

Hillary,

Following up on today's meet-and-confer, Samsung opposes TOT's motion to strike for at the least the reason that the theories on which Samsung relies relating to the Qualcomm MSM6250 chipset were sufficiently disclosed in contentions.

Further, unless TOT agrees to withdraw Dr. Larson's improper DOE opinions that the defendants have identified, Samsung sees no reason why the two motions to strike should not be presented to the Court simultaneously.

Thanks, Josh

Joshua S. Reisberg | BLANKROME

1271 Avenue of the Americas | New York, NY 10020

O: +1.212.885.5553 | M: +1.917.991.9550 | josh.reisberg@blankrome.com

From: Reisberg, Josh S. < <u>Josh.Reisberg@BlankRome.com</u>>

Sent: Monday, September 16, 2024 4:20 PM

To: Castellano, Jeff < <u>Jeff.Castellano@us.dlapiper.com</u>>; Hillary Bunsow < <u>hillarybunsow@bdiplaw.com</u>>; Strapp, Michael G. < <u>Michael.Strapp@us.dlapiper.com</u>>; TOT_Power < <u>BDIP_TOT_Power@bdiplaw.com</u>>;

<u>TOTHausfeldTeam@hausfeld.com</u>; <u>bfarnan@farnanlaw.com</u>; <u>mfarnan@farnanlaw.com</u>; DLA-LGE-TOT-Power < <u>DLA-LGE-</u>

Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 57 of 111 PageID #: 13009

<u>TOT-Power@us.dlapiper.com</u>>; DLA-Apple-TOT-Power <<u>DLA-Apple-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-BlankRome-Samsung-TOT-Power <<u>BlankRome-Samsung-TOT-Power@BlankRome.com</u>>; Adam W. Poff (<u>apoff@ycst.com</u>) <<u>apoff@ycst.com</u>>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

Same for Samsung.

Joshua S. Reisberg | BLANKROME

1271 Avenue of the Americas | New York, NY 10020

O: +1.212.885.5553 | M: +1.917.991.9550 | josh.reisberg@blankrome.com

From: Castellano, Jeff < Jeff. Castellano@us.dlapiper.com>

Sent: Monday, September 16, 2024 4:19 PM

To: Hillary Bunsow <hillarybunsow@bdiplaw.com>; Strapp, Michael G. <Michael.Strapp@us.dlapiper.com>; Reisberg,

Josh S. <Josh.Reisberg@BlankRome.com>; TOT Power <BDIP TOT Power@bdiplaw.com>;

TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power < DLA-LGE-

TOT-Power@us.dlapiper.com>; DLA-Apple-TOT-Power < DLA-Apple-TOT-Power@us.dlapiper.com>; CM-200771-00603-

BlankRome-Samsung-TOT-Power < <u>BlankRome-Samsung-TOT-Power@BlankRome.com</u>>; Adam W. Poff

(apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

That time works for LGE.

From: Hillary Bunsow hillarybunsow@bdiplaw.com

Sent: Monday, September 16, 2024 4:17 PM

To: Strapp, Michael G. <<u>Michael.Strapp@us.dlapiper.com</u>>; Reisberg, Josh S. <<u>Josh.Reisberg@BlankRome.com</u>>; TOT_Power <<u>BDIP_TOT_Power@bdiplaw.com</u>>; <u>TOTHausfeldTeam@hausfeld.com</u>; <u>bfarnan@farnanlaw.com</u>; <u>mfarnan@farnanlaw.com</u>; <u>DLA-LGE-TOT-Power@us.dlapiper.com</u>>; DLA-Apple-TOT-Power <<u>DLA-Apple-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

A EXTERNAL MESSAGE

Samsung/LG: Are you available tomorrow at 1 pm ET?



Hillary N. Bunsow

Senior Associate & Pro Bono Coordinator

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Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 58 of 111 PageID #: 13010

From: Strapp, Michael G. <Michael.Strapp@us.dlapiper.com>

Sent: Monday, September 16, 2024 1:07 PM

To: Hillary Bunsow < hillarybunsow@bdiplaw.com >; Reisberg, Josh S. < Josh.Reisberg@BlankRome.com >; TOT_Power < BDIP_TOT_Power@bdiplaw.com >; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power < DLA-LGE-TOT-Power@us.dlapiper.com >; DLA-Apple-TOT-Power < DLA-Apple-TOT-Power@us.dlapiper.com >; CM-200771-00603-BlankRome-Samsung-TOT-Power < BlankRome-Samsung-TOT-Power < DLA-LGE-TOT-Power < DLA-LGE-TOT

Subject: RE: Request for meet & confer re Qualcomm MSM6250

Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) <apoff@ycst.com>

[EXTERNAL]

Hillary,

One clarification: we are available tomorrow from 1-2 pm ET. We are not available before noon ET tomorrow.

Thank you,

Michael

Michael Strapp

Partner

T +1 617 406 6031 F +1 617 406 6174 M +1 917 518 3828 michael.strapp@us.dlapiper.com

DLA Piper LLP (US) dlapiper.com

From: Strapp, Michael G.

Sent: Monday, September 16, 2024 4:06 PM

To: 'Hillary Bunsow' < hillarybunsow@bdiplaw.com'>; Reisberg, Josh S. < Josh.Reisberg@BlankRome.com'>; TOT_Power < BDIP_TOT_Power@bdiplaw.com'>; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power < DLA-LGE-TOT-Power@us.dlapiper.com'>; DLA-Apple-TOT-Power@us.dlapiper.com'>; CM-200771-00603-BlankRome-Samsung-TOT-Power@lankRome-Samsung-TOT-Power@BlankRome.com'>; Adam W. Poff (apoff@ycst.com) < apoff@ycst.com'>

Subject: RE: Reguest for meet & confer re Qualcomm MSM6250

Hillary,

Apple is not available today. We are available tomorrow either before noon ET or from 1-2 pm ET.

Regards,

Michael

Michael Strapp

Partner

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From: Hillary Bunsow < hillarybunsow@bdiplaw.com >

Sent: Monday, September 16, 2024 12:50 PM

To: Reisberg, Josh S. <Josh.Reisberg@BlankRome.com>; TOT_Power <BDIP_TOT_Power@bdiplaw.com>;

<u>TOTHausfeldTeam@hausfeld.com</u>; <u>bfarnan@farnanlaw.com</u>; <u>mfarnan@farnanlaw.com</u>; <u>DLA-LGE-TOT-Power@us.dlapiper.com</u>>; <u>DLA-Apple-TOT-Power@us.dlapiper.com</u>>; CM-200771-00603-

BlankRome-Samsung-TOT-Power <BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff

(apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Request for meet & confer re Qualcomm MSM6250

▲ E

EXTERNAL MESSAGE

Counsel for Apple and LG: Are you also available to meet and confer today at or after 5:30 pm ET?



Hillary N. Bunsow

Senior Associate & Pro Bono Coordinator

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From: Reisberg, Josh S. < Josh. Reisberg@BlankRome.com>

Sent: Monday, September 16, 2024 8:43 AM

To: Hillary Bunsow < hillarybunsow@bdiplaw.com; TOT_Power < BDIP_TOT_Power@bdiplaw.com;

 $BlankRome-Samsung-TOT-Power < \underline{BlankRome-Samsung-TOT-Power@BlankRome.com} >; Adam W. \ Poff \\$

(apoff@ycst.com) <apoff@ycst.com>

Subject: RE: Reguest for meet & confer re Qualcomm MSM6250

[EXTERNAL]

Hillary,

Samsung is available to meet and confer today at or after 5:30 PM ET.

Thanks, Josh

Joshua S. Reisberg | BLANKROME

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From: Hillary Bunsow hillarybunsow@bdiplaw.com

Sent: Friday, September 13, 2024 3:34 PM

To: TOT_Power <BDIP_TOT_Power@bdiplaw.com>; TOTHausfeldTeam@hausfeld.com; bfarnan@farnanlaw.com; mfarnan@farnanlaw.com; DLA-LGE-TOT-Power <DLA-LGE-TOT-Power@us.dlapiper.com>; DLA-Apple-TOT-Power <DLA-Apple-TOT-Power@us.dlapiper.com>; CM-200771-00603-BlankRome-Samsung-TOT-Power@BlankRome.com>; Adam W. Poff (apoff@ycst.com) apoff@ycst.com>

Subject: Request for meet & confer re Qualcomm MSM6250

Counsel for Apple, LG and Samsung:

We intend to move the Court to strike from Defendants' expert reports any invalidity opinions relating to the Qualcomm MSM6250 chipset because Defendants' invalidity theories based on this product were not properly disclosed in the Defendants' Final Invalidity Contentions. While Defendants generally identified in their Final Invalidity Contentions the MSM6250 as prior art that might anticipate or render obvious TOT's patents, Defendants never provided a claim chart for MSM6250 disclosing their invalidity theories for the product.

Qualcomm produced material regarding the MSM6250 prior to the final invalidity contention deadline of February 23, 2024. However, Defendants did not provide a chart for the MSM6250 with their final contentions on February 23. Rather, Defendants included a footnote in their contentions stating that discovery from Qualcomm is ongoing, and that they reserved the right to supplement their contentions with a claim chart directed at MSM6250. But Defendants never supplemented their contentions with any such chart, even after obtaining additional discovery from Qualcomm.

TOT is prejudiced by Defendants' failure to disclose their MSM6250 invalidity theories per the schedule ordered by the Court, including because had the theories been disclosed, TOT could have questioned Qualcomm on the topic at the Qualcomm deposition on May 17 or sought additional discovery from Qualcomm.

Please let us know your availability for a meet and confer Monday. To the extent Defendants do not agree to withdraw the MSM6250 invalidity theories from their expert reports, we intend to send the following email to the Court. Please let us know if Defendants have anything to add.

Dear Ms. Welham,

Plaintiff TOT Power Control, S.L. and Defendants LG Electronics USA, Inc., LG Electronics, Inc., Apple Inc., Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. respectfully request a discovery hearing on striking from Defendants' expert reports any invalidity opinions relating to the Qualcomm MSM6250 chip.

This issue affects TOT's rebuttal expert reports due on September 27, 2024.



Hillary N. Bunsow

Senior Associate & Pro Bono Coordinator

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Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 61 of 111 PageID #: 13013

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EXHIBIT 5

1:20cv224, Vaxcel International Co., Ltd. V. Heathco Llc

US District Court Docket

United States District Court, Delaware

(Wilmington)

This case was retrieved on 09/18/2024

Header

Case Number: 1:20cv224 **Date Filed:** 02/14/2020

Assigned To: Judge Gregory B. Williams

Nature of Suit: Patent (830) Cause: Patent Infringement Lead Docket: None Other Docket: None

Jurisdiction: Federal Question

Class Code: Closed Closed: 12/01/2022 Statute: 35:1 Jury Demand: Defendant Demand Amount: \$0

NOS Description: Patent

Participants

Litigants

Vaxcel International Co., Ltd. **Plaintiff**

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1:20cv224, Vaxcel International Co., Ltd. V. Heathco Llc

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1:20cv224, Vaxcel International Co., Ltd. V. Heathco Llc

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Proceedings

#	Date	Proceeding Text	Source
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#	Date	Proceeding Text	Source
1	02/14/2020	COMPLAINT - filed with Jury Demand against HeathCo LLC - Magistrate Consent Notice to Pltf. (Filing fee \$ 400, receipt number 0311-2854064.) - filed by Vaxcel International Co., Ltd. (Attachments: # 1 Exhibit A-G, # 2 Exhibit H-L, # 3 Exhibit M, # 4 Exhibit N-Q, # 5 Civil Cover Sheet) (lak) (Entered: 02/18/2020)	
2	02/14/2020	Notice, Consent and Referral forms re: U.S. Magistrate Judge jurisdiction. (lak) (Entered: 02/18/2020)	
3	02/14/2020	Report to the Commissioner of Patents and Trademarks for Patent/Trademark Number(s) 10,136,503 ;10,187,947 ;10,491,032 ;10,225,902 ;10,516,292. (lak) (Entered: 02/18/2020)	
4	02/14/2020	Disclosure Statement pursuant to Rule 7.1: No Parents or Affiliates Listed filed by Vaxcel International Co., Ltd (lak) (Entered: 02/18/2020)	
	02/18/2020	Summons Issued with Magistrate Consent Notice attached as to HeathCo LLC on 2/18/2020. Requesting party or attorney should pick up issued summons at the Help Desk, Room 4209, or call 302-573-6170 and ask the Clerk to mail the summons to them. (lak) (Entered: 02/18/2020)	
5	02/18/2020	MOTION for Pro Hac Vice Appearance of Attorney Robert Mark Halligan and Richard Lehrer of FisherBroyles LLP - filed by Vaxcel International Co., Ltd (Cottrell, Frederick) (Entered: 02/18/2020)	
	02/19/2020	Case Assigned to Judge Leonard P. Stark. Please include the initials of the Judge (LPS) after the case number on all documents filed. (rjb) (Entered: 02/19/2020)	
6	02/19/2020	SUMMONS Returned Executed by Vaxcel International Co., Ltd HeathCo LLC served on 2/18/2020, answer due 3/10/2020. (Mowery, Katharine) (Entered: 02/19/2020)	
	02/24/2020	SO ORDERED, re 5 MOTION for Pro Hac Vice Appearance of Attorney Robert Mark Halligan and Richard Lehrer of FisherBroyles LLP filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 2/24/20. (ntl) (Entered: 02/24/2020)	
	02/24/2020	Pro Hac Vice Attorney Richard Lehrer for Vaxcel International Co., Ltd. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (kmd) (Entered: 02/24/2020)	
	02/24/2020	Pro Hac Vice Attorney Robert Mark Halligan for Vaxcel International Co., Ltd. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 02/24/2020)	
7	03/10/2020	STIPULATION TO EXTEND TIME to move, answer, or otherwise respond to the Complaint to April 9, 2020 - filed by HeathCo LLC. (Brauerman, Stephen) (Entered: 03/10/2020)	
	03/13/2020	SO ORDERED, re 7 STIPULATION TO EXTEND TIME to move, answer, or otherwise respond to the Complaint to April 9, 2020 filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 3/13/20. (ntl) (Entered: 03/13/2020)	
8	03/31/2020	MOTION for Pro Hac Vice Appearance of Attorney Larry Russ and Brian Ledahl - filed by HeathCo LLC. (Attachments: # 1 Certification of Larry Russ, # 2 Certification of Brian Ledahl)(Brauerman, Stephen) (Entered: 03/31/2020)	
	04/07/2020	SO ORDERED, re 8 MOTION for Pro Hac Vice Appearance of Attorney Larry Russ and Brian Ledahl filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 4/7/20. (ntl) (Entered: 04/07/2020)	
9	04/09/2020	ANSWER to 1 Complaint, with Jury Demand / Defendant HeathCo, LLCs Answer and Affirmative Defenses by HeathCo LLC.(Brauerman, Stephen) (Entered: 04/09/2020)	

#	Date	Proceeding Text	Source
10	05/13/2020	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding request for scheduling conference. (Mowery, Katharine) (Entered: 05/13/2020)	
11	05/13/2020	ORAL ORDER: IT IS HEREBY ORDERED that the parties shall confer regarding proposed dates in the scheduling order and shall submit a proposal, including a proposal for the length and timing of trial, to the Court no later than May 27, 2020. The parties are to review the Court's form scheduling order, which is posted at http://www.ded.uscourts.gov (see Chambers, Judge Stark, New Patent Procedures). ORDERED by Judge Leonard P. Stark on 5/13/2020. (ntl) (Entered: 05/13/2020)	
	05/15/2020	Pro Hac Vice Attorney Brian Ledahl for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 05/15/2020)	
	05/18/2020	Pro Hac Vice Attorney Larry C. Russ for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 05/18/2020)	
12	05/27/2020	PROPOSED ORDER Patent Scheduling Order by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 05/27/2020)	
13	06/10/2020	MOTION for Pro Hac Vice Appearance of Attorney Minna Y. Chan - filed by HeathCo LLC. (Attachments: # 1 Certification of Minna Y. Chan)(Brauerman, Stephen) (Entered: 06/10/2020)	
	06/11/2020	SO ORDERED, re 13 MOTION for Pro Hac Vice Appearance of Attorney Minna Y. Chan filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 6/11/20. (ntl) (Entered: 06/11/2020)	
14	06/16/2020	SCHEDULING ORDER: Case referred to the Magistrate Judge for the purpose of exploring ADR. Status Report due by 8/13/2021. Dispositive Motions due by 3/25/2022. An Oral Argument is set for 5/24/2022 at 09:00 AM in Courtroom 6B before Judge Leonard P. Stark. Claim Construction Opening Brief due by 3/12/2021. Claim Construction Answering Brief due by 4/9/2021. A Markman Hearing is set for 5/3/2021 at 09:00 AM in Courtroom 6B before Judge Leonard P. Stark. Proposed Pretrial Order due by 7/15/2022. A Final Pretrial Conference is set for 8/5/2022 at 09:00 AM in Courtroom 6B before Judge Leonard P. Stark. A 7-day Jury Trial is set for 8/15/2022 at 09:00 AM in Courtroom 6B before Judge Leonard P. Stark on 6/16/20. (ntl) (Entered: 06/16/2020)	
	06/16/2020	CASE REFERRED to Chief Magistrate Judge Mary Pat Thynge for Mediation. Please see Standing Order dated January 20, 2016, regarding disclosure of confidential ADR communications. A link to the standing order is provided here for your convenience at https://www.ded.uscourts.gov/sites/ded/files/forms/StandingOrderf orADR-Mediation.pdf (cak) (Entered: 06/16/2020)	
15	06/16/2020	ORAL ORDER: This matter has been referred to Chief Magistrate Judge Mary Pat Thynge for ADR. Counsel are to advise on or before June 30, 2020 by a JOINT EMAIL to Judge Thynge, with a copy to her Judicial Administrator, Ms. Kennedy, their clients interest in mediation and the timing when mediation is preferred with a very brief explanation why. When referencing the timing for mediation, counsel rely on certain events in the scheduling order, for example, before claim construction briefing, after the close of discovery, before expert reports and the like, they are to include the date(s) on when such event(s) occur. Ordered by Chief Magistrate Judge Mary Pat Thynge on 6/16/20. (cak) (Entered: 06/16/2020)	
	06/17/2020	Pro Hac Vice Attorney Minna Y. Chan for HeathCo LLC added for	

#	Date	Proceeding Text	Source
		electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 06/17/2020)	
16	07/07/2020	NOTICE OF SERVICE of Defendant Heathco LLCs Initial Disclosures filed by HeathCo LLC.(Brauerman, Stephen) (Entered: 07/07/2020)	
17	07/07/2020	NOTICE OF SERVICE of Plaintiff Vaxcel International Co., LTD's Initial Disclosures filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 07/07/2020)	
18	07/15/2020	NOTICE OF SERVICE of Defendant Heathco LLCs Default Standard for Discovery Section 3 Disclosures filed by HeathCo LLC.(Brauerman, Stephen) (Entered: 07/15/2020)	
19	07/16/2020	NOTICE OF SERVICE of Plaintiff's Disclosures Purusant to Section 3 of the Default Standard filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 07/16/2020)	
20	07/16/2020	STIPULATION TO EXTEND TIME to submit a Proposed Protective Order to July 23, 2020 - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 07/16/2020)	
	07/20/2020	SO ORDERED, re 20 STIPULATION TO EXTEND TIME to submit a Proposed Protective Order to July 23, 2020 filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 7/20/20. (ntl) (Entered: 07/20/2020)	
21	07/20/2020	MOTION for Pro Hac Vice Appearance of Attorney Paul A. Kroeger - filed by HeathCo LLC. (Attachments: # 1 Certification of Paul A. Kroeger)(Brauerman, Stephen) (Entered: 07/20/2020)	
	07/23/2020	SO ORDERED, re 21 MOTION for Pro Hac Vice Appearance of Attorney Paul A. Kroeger filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 7/23/20. (ntl) (Entered: 07/23/2020)	
	07/23/2020	Pro Hac Vice Attorney Paul A. Kroeger for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 07/23/2020)	
22	07/23/2020	PROPOSED ORDER Proposed Protective Order by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 07/23/2020)	
	07/28/2020	SO ORDERED, re 22 Proposed Protective Order filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 7/28/20. (ntl) (Entered: 07/28/2020)	
23	07/29/2020	ORDER Setting Teleconference: Plaintiff's counsel to initiate the call. A Telephone Conference is set for 8/7/2020 at 11:00 AM Eastern Time with Judge Mary Pat Thynge to discuss ADR. Signed by Judge Mary Pat Thynge on 7/29/20. (cak) (Entered: 07/29/2020)	
24	08/07/2020	NOTICE OF SERVICE of Plaintiff's (1) Disclosures Pursuant to Paragraph 7(a) of the Scheduling Order; and (2) Production of the Prosecution History of Each Asserted Patent filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 08/07/2020)	
25	08/18/2020	ORAL ORDER Setting Teleconference: Defense counsel to initiate the call. A Telephone Conference is set for 11/30/2020 at 11:00 AM Eastern Time with Judge Mary Pat Thynge. Ordered by Judge Mary Pat Thynge on 8/18/20. (cak) (Entered: 08/18/2020)	
26	09/29/2020	MOTION Unopposed Motion for Leave to File a First Amended and Supplemental Complaint - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 09/29/2020)	
27	09/29/2020	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Motion for Leave to File Amended and Supplemental Complaint. (Attachments: # 1 Exhibit 1 (Tabs A-I), # 2 Exhibit 1 (Tabs J-O), # 3 Exhibit 1 (Tabs P-S))(Mowery,	

#	Date	Proceeding Text	Source
		Katharine) (Entered: 09/29/2020)	
28	09/29/2020	EXHIBIT re 27 Letter, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit 1 (Tab T), # 2 Exhibit 1 (Tab U-X), # 3 Exhibit 1 (Tab (Y-Z), # 4 Exhibit 2)(Mowery, Katharine) (Entered: 09/29/2020)	
29	10/05/2020	ORDER re 26 MOTION Unopposed Motion for Leave to File a First Amended and Supplemental Complaint filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 10/1/20. (ntl) (Entered: 10/05/2020)	
30	10/06/2020	First AMENDED COMPLAINT against HeathCo LLC- filed by Vaxcel International Co., Ltd (Attachments: # 1 Patent/Trademark Report, # 2 Exhibit A-I, # 3 Exhibit J-O, # 4 Exhibit P-S)(Mowery, Katharine) (Entered: 10/06/2020)	
31	10/06/2020	EXHIBIT re 30 Amended Complaint by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit T, # 2 Exhibit U-X, # 3 Exhibit Y- Z)(Mowery, Katharine) (Entered: 10/06/2020)	
32	10/07/2020	MOTION for Pro Hac Vice Appearance of Attorney David T. Shackelford - filed by HeathCo LLC. (Attachments: # 1 Certification David T. Shackelford)(Brauerman, Stephen) (Entered: 10/07/2020)	
	10/09/2020	SO ORDERED, re 32 MOTION for Pro Hac Vice Appearance of Attorney David T. Shackelford filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 10/9/20. (ntl) (Entered: 10/09/2020)	
	10/13/2020	Pro Hac Vice Attorney David T. Shackelford for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (myr) (Entered: 10/13/2020)	
33	10/15/2020	Joint STIPULATION TO EXTEND TIME for Defendant Heathco LLC to answer, move, or otherwise respond to Plaintiff's First Amended and Supplemental Complaint to November 19, 2020 - filed by HeathCo LLC. (Brauerman, Stephen) (Entered: 10/15/2020)	
	10/16/2020	SO ORDERED, re 33 Joint STIPULATION TO EXTEND TIME for Defendant Heathco LLC to answer, move, or otherwise respond to Plaintiff's First Amended and Supplemental Complaint to November 19, 2020 filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 10/16/20. (ntl) (Entered: 10/16/2020)	
34	11/09/2020	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding the request for a scheduling conference - re 30 Amended Complaint. (Attachments: # 1 Exhibit)(Mowery, Katharine) (Entered: 11/09/2020)	
35	11/19/2020	AMENDED ANSWER to 30 Amended Complaint by HeathCo LLC. (Brauerman, Stephen) (Entered: 11/19/2020)	
36	11/23/2020	AMENDED SCHEDULING ORDER: Status Report due by 10/10/2021. Dispositive Motions due by 4/25/2022. An Oral Argument is set for 6/28/2022 at 11:00 AM in Courtroom 6B before Judge Leonard P. Stark. Joint Claim Construction Brief due by 7/19/2021. A Markman Hearing is set for 8/2/2021 at 09:00 AM in Courtroom 6B before Judge Leonard P. Stark. Proposed Pretrial Order due by 9/19/2022. A Final Pretrial Conference is set for 9/29/2022 at 04:00 PM in Courtroom 6B before Judge Leonard P. Stark. A 7-day Jury Trial is set for 10/11/2022 at 09:00 AM in Courtroom 6B before Judge Leonard P. Stark. Signed by Judge Leonard P. Stark on 11/23/20. (ntl) (Entered: 11/23/2020)	
37	11/30/2020	MOTION for Pro Hac Vice Appearance of Attorney Michael Sadowitz, David Radulescu, and Etai Lahav - filed by HeathCo LLC. (Attachments: # 1 Certificate of Compliance, # 2 Certificate of Compliance, # 3 Certificate of Compliance)(Brauerman, Stephen) (Entered: 11/30/2020)	

#	Date	Proceeding Text	Source
	12/01/2020	SO ORDERED, re 37 MOTION for Pro Hac Vice Appearance of Attorney Michael Sadowitz, David Radulescu, and Etai Lahav filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 12/1/20. (ntl) (Entered: 12/01/2020)	
38	12/08/2020	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Narrowing Claims. (Brauerman, Stephen) (Entered: 12/08/2020)	
39	12/11/2020	MOTION to Strike 38 Letter - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 12/11/2020)	
40	12/11/2020	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Motion to Strike HeathCo's December 8, 2020 Letter Motion - re 39 MOTION to Strike 38 Letter . (Attachments: # 1 Exhibit A)(Mowery, Katharine) (Entered: 12/11/2020)	
41	12/11/2020	NOTICE OF SERVICE of Plaintiff's (1) Disclosures Pursuant to the Revised Scheduling Order and (2) Production of the Prosecution History of Each Asserted Patent filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 12/11/2020)	
42	12/15/2020	RESPONSE to Motion re 39 MOTION to Strike 38 Letter filed by HeathCo LLC. (Brauerman, Stephen) (Entered: 12/15/2020)	
	12/16/2020	Pro Hac Vice Attorney Michael D. Sadowitz for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (myr) (Entered: 12/16/2020)	
	12/16/2020	Pro Hac Vice Attorney David C. Radulescu for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (myr) (Entered: 12/16/2020)	
	12/16/2020	Pro Hac Vice Attorney Etai Lahav for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (myr) (Entered: 12/16/2020)	
43	12/16/2020	NOTICE requesting Clerk to remove Larry C. Russ and Brian D. Ledahl as co-counsel. Reason for request: No longer representing Defendant. (Brauerman, Stephen) (Entered: 12/16/2020)	
44	12/18/2020	Letter to The Honorable Leonard P.Stark from Katharine L. Mowery regarding response to Heathco's response to motion to strike - re 42 Response to Motion. (Mowery, Katharine) (Entered: 12/18/2020)	
45	12/18/2020	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Request for Teleconference on Vaxcel's Motion to Strike - re 39 MOTION to Strike 38 Letter . (Mowery, Katharine) (Entered: 12/18/2020)	
46	12/28/2020	ORAL ORDER: Having reviewed the parties' recent letters (see D.I. 38-40, 42, 44-45), IT IS HEREBY ORDERED that Vaxcel's motion to strike a letter (D.I. 39) is DENIED. IT IS FURTHER ORDERED that the Court will hold a status teleconference on Wednesday, January 13, 2021 beginning at 10:30 a.m. Counsel shall provide the Court with the call-in information. In advance of the teleconference, the parties shall meet and confer and, no later than January 11, submit a joint status report providing (in addition to anything else they wish to report) their position(s) on narrowing the asserted patent claims, narrowing prior art references on which invalidity defenses may be based, and a procedure to accelerate at least some limited damages-related discovery (to allow the parties and Court to better assess, among other things, the amount of discovery likely to be proportional to the needs of the case). Ordered by Judge Leonard P. Stark on 12/28/2020. (etg) (Entered: 12/28/2020)	

#	Date	Proceeding Text	Source
47	01/11/2021	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Joint Status Report - re 46 Oral Order,,,, Set Hearings,,,. (Attachments: # 1 Exhibit Vaxcel's Exhibits A-F)(Mowery, Katharine) (Entered: 01/11/2021)	
48	01/12/2021	ORAL ORDER: Having reviewed the parties' letter (D.I. 47), IT IS HEREBY ORDERED that the following provisions will govern (in addition to those the parties have agreed on: (i) Plaintiff will reduce its asserted claims to no more than 100, split however plaintiff chooses, by February 12, 2021; (ii) Defendant will reduce its prior art references to no more than 50 by March 12, 2021; (iii) Plaintiff will reduce its asserted claims to no more than 33 within 21 days after the issuance of the Markman order; (iv) Defendant will reduce its prior art references to no more than 30 within 21 days after Plaintiff's post-Markman order reduction of claims; and (v) the parties will brief no more than 15 claim construction disputes as part of the forthcoming Markman process. All of these limitations may be modified for good cause shown. The Court has determined, based on the totality of circumstances and the arguments made by the parties, that these limitations are reasonable and appropriate. Additional reductions on both sides will almost certainly become necessary (and possibly ordered) before trial, given the limited time the parties will be given for their trial presentations. IT IS FURTHER ORDERED that the teleconference scheduled for January 13 is cancelled. ORDERED by Judge Leonard P. Stark on 1/12/21. (ntl) (Entered: 01/12/2021)	
49	01/13/2021	NOTICE of Appearance by Ronald P. Golden, III on behalf of HeathCo LLC (Golden, Ronald) (Entered: 01/13/2021)	
50	01/28/2021	NOTICE OF SERVICE of Heathco LLC's First Set of Interrogatories (Nos. 1-12) and Heathco LLC's First Set of Requests for Production (Nos. 1-78) filed by HeathCo LLC.(Brauerman, Stephen) (Entered: 01/28/2021)	
51	01/28/2021	NOTICE requesting Clerk to remove Minna Y. Chan, Paul A. Kroeger, and David T. Shackelford as co-counsel. Reason for request: No longer representing Defendant. (Brauerman, Stephen) (Entered: 01/28/2021)	
52	02/03/2021	ORDER Setting Mediation Conferences: A Mediation Conference is set for 8/11/2021 at 10:00 AM Eastern Time before Judge Mary Pat Thynge. SEE ORDER FOR DETAILS. Signed by Judge Mary Pat Thynge on 2/3/21. (cak) (Entered: 02/03/2021)	
	02/03/2021	CORRECTING ENTRY: DI 53 removed from the docket. It was filed in the wrong case. (cak) (Entered: 02/03/2021)	
53	02/12/2021	STIPULATION and [Proposed] Order to Extend Time Regarding Contention Deadlines by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 02/12/2021)	
	02/16/2021	SO ORDERED, re 53 STIPULATION and [Proposed] Order to Extend Time Regarding Contention Deadlines filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 2/16/21. (ntl) (Entered: 02/16/2021)	
54	02/19/2021	NOTICE OF SERVICE of Plaintiff's Reduced Claim Identification and Initial Claim Charts filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 02/19/2021)	
55	03/01/2021	NOTICE OF SERVICE of Plaintiff's Objections and Responses to Defendant's: (1) First Set of Requests for Production (Nos. 1-75) and (2) First Set of Interrogatories (Nos. 1-12) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 03/01/2021)	
56	03/05/2021	NOTICE OF SERVICE of (1) Plaintiff's First Set of Interrogatories (Nos. 1-13) to Defendant and (2) Plaintiff's First Set of Requests for the Production of Documents and Things (Nos. 1-74) to Defendant filed by Vaxcel International Co., Ltd(Mowery,	

#	Date	Proceeding Text	Source
		Katharine) (Entered: 03/05/2021)	
57	03/30/2021	STIPULATION TO EXTEND TIME for Vaxcel to serve an amended claim chart pursuant to the Court's Revised Patent Form Scheduling Order (D.I. 36) shall be April 9, 2021 and the deadline for Heathco to serve its intial invalidity contentions pursuant to the Court's Revised Patent Form Scheduling Order (D.I. 36) is extended to April 2, 2021 - filed by HeathCo LLC. (Golden, Ronald) (Entered: 03/30/2021)	
58	04/02/2021	NOTICE OF SERVICE of Defendant Heathco LLC's Initial Invalidity Contentions filed by HeathCo LLC.(Golden, Ronald) (Entered: 04/02/2021)	
	04/12/2021	SO ORDERED, re 57 STIPULATION TO EXTEND TIME for Vaxcel to serve an amended claim chart pursuant to the Court's Revised Patent Form Scheduling Order (D.I. 36) shall be April 9, 2021 and the deadline for Heathco to serve its intial invalidity contentions pursuant to the Court's Revised Patent Form Scheduling Order (D.I. 36) is extended to April 2, 2021 filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 4/12/21. (ntl) (Entered: 04/12/2021)	
59	04/12/2021	NOTICE OF SERVICE of Heathco LLC's Document Production, Heathco LLC's Responses and Objections to Plaintiff's First Set of Interrogatories (Nos. 1-13), and Heathco LLC's Responses and Objections to Plaintiff's First Set of Requests for the Production of Documents and Things (Nos. 1-74) filed by HeathCo LLC.(Golden, Ronald) (Entered: 04/12/2021)	
60	04/12/2021	NOTICE OF SERVICE of Plaintiff's Supplemental Initial Infringement Claim Charts filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 04/12/2021)	
61	04/20/2021	NOTICE OF SERVICE of Heathco LLC's Preliminary Proposed Claim Terms and Constructions filed by HeathCo LLC.(Golden, Ronald) (Entered: 04/20/2021)	
62	04/20/2021	NOTICE OF SERVICE of Claim Construction Issue Identification filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 04/20/2021)	
63	04/23/2021	ORAL ORDER re 52 Order Setting Mediation Conferences. The mediation ORDER at D.I. 52 is modified as follows: The virtual platform information, shall be due no earlier or no later than 8/9/2021 at 5:00 PM Eastern Time. This may be provided in a single email, and any such information shall be provided to Judge Thynge and her Law Clerk, Daniel Taylor (daniel_taylor@ded.uscourts.gov). All other provisions of D.I. 52 remain the same. Ordered by Judge Mary Pat Thynge on 4/23/2021. (Taylor, Daniel) (Entered: 04/23/2021)	
64	05/14/2021	CLAIM Construction Chart by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A-D, # 2 Exhibit E-K, # 3 Exhibit L-M)(Mowery, Katharine) (Entered: 05/14/2021)	
65	06/18/2021	NOTICE OF SERVICE of Heathco LLCs Claim Construction Answering Brief and this Notice of Service filed by HeathCo LLC.(Brauerman, Stephen) (Entered: 06/18/2021)	
66	07/06/2021	NOTICE OF SERVICE of Plaintiff's Opening Claim Construction Brief For U.S. Patent Nos. 10,136,503, 10,187,947, 10,491,032, 9,326,362, 10,225,902, 10,516,292, 10,763,691, 10,770,916, 10,154,564, 10,667,367 and 9,560,719 filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 07/06/2021)	
67	07/06/2021	NOTICE OF SERVICE of (1) Plaintiff's Reply Claim Construction Brief and (2) Declaration of Richard M. Lehrer, Esq. in Support of Plaintiff's Reply Claim Construction Brief filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 07/06/2021)	

#	Date	Proceeding Text	Source
68	07/16/2021	NOTICE OF SERVICE of Heathco LLC's Claim Consruction Sur- Reply Brief, the Delcaration of Michael D. Sadowitz in Support of Defendant Heathco LLC's Sur-Reply Claim Construction Brief and this Notice of Service filed by HeathCo LLC.(Golden, Ronald) (Entered: 07/16/2021)	
69	07/19/2021	JOINT CLAIM CONSTRUCTION BRIEF filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 07/19/2021)	
70	07/19/2021	Joint APPENDIX re 69 Joint Claim Construction Brief by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit Part 1, # 2 Exhibit Part 2, # 3 Exhibit Part 3, # 4 Exhibit Part 4)(Mowery, Katharine) (Entered: 07/19/2021)	
71	07/21/2021	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding August 2 Markman Hearing. (Mowery, Katharine) (Entered: 07/21/2021)	
72	07/28/2021	MOTION for Pro Hac Vice Appearance of Attorney John E. Boyd - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 07/28/2021)	
73	07/28/2021	MOTION for Pro Hac Vice Appearance of Attorney Kevin S. Kudlac - filed by HeathCo LLC. (Attachments: # 1 [Proposed] Order, # 2 Certification of Kevin S. Kudlac)(Golden, Ronald) (Entered: 07/28/2021)	
	07/28/2021	SO ORDERED, re 72 MOTION for Pro Hac Vice Appearance of Attorney John E. Boyd filed by Vaxcel International Co., Ltd., 73 MOTION for Pro Hac Vice Appearance of Attorney Kevin S. Kudlac filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 7/28/21. (ntl) (Entered: 07/28/2021)	
	07/29/2021	Pro Hac Vice Attorney John E. Boyd for Vaxcel International Co., Ltd. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (apk) (Entered: 07/29/2021)	
74	07/30/2021	ORAL ORDER: IT IS HEREBY ORDERED that at the Claim Construction Hearing on Monday, August 2, each side will have 2 hours for its presentation. Ordered by Judge Leonard P. Stark on 7/30/2021. (etg) (Entered: 07/30/2021)	
	08/02/2021	Minute Entry for proceedings held before Judge Leonard P. Stark - Markman Hearing held on 8/2/2021. (Court Reporter B. Gaffigan.) (ntl) (Entered: 08/02/2021)	
75	08/17/2021	Official Transcript of Claim Construction Hearing held on August 2, 2021 before Judge Leonard P. Stark. Court Reporter Brian Gaffigan, email: gaffigan@verizon.net. Transcript may be viewed at the court public terminal or ordered/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 9/7/2021. Redacted Transcript Deadline set for 9/17/2021. Release of Transcript Restriction set for 11/15/2021. (bpg) (Entered: 08/17/2021)	
76	08/20/2021	NOTICE OF SERVICE of Index of Documents Responsive to Plaintiff's Requests for Production of Documents and Things Nos. 1-74 and document production filed by HeathCo LLC.(Golden, Ronald) (Entered: 08/20/2021)	
77	08/27/2021	ORDER Setting Mediation Conferences: A Video/Virtual Mediation Conference is set for 10/11/2021 at 10:00 AM before Judge Mary Pat Thynge. See ORDER for details. Signed by Judge Mary Pat Thynge on 8/27/2021. (Taylor, Daniel) (Entered: 08/27/2021)	
78	09/29/2021	STIPULATION to extend deadline to submit Interim Status Report to October 18, 2021 by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 09/29/2021)	
79	09/30/2021	NOTICE requesting Clerk to remove Michael D. Sadowitz as co-	

#	Date	Proceeding Text	Source
		counsel. Reason for request: No longer affiliated with Radulescu LLP. (Golden, Ronald) (Entered: 09/30/2021)	
80	09/30/2021	MOTION for Pro Hac Vice Appearance of Attorney Bryon Wasserman - filed by HeathCo LLC. (Golden, Ronald) (Entered: 09/30/2021)	
	09/30/2021	SO ORDERED, re 80 MOTION for Pro Hac Vice Appearance of Attorney Bryon Wasserman filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 9/30/21. (ntl) (Entered: 09/30/2021)	
	10/01/2021	Pro Hac Vice Attorney Bryon Wasserman for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (apk) (Entered: 10/01/2021)	
	10/04/2021	SO ORDERED, re 78 Stipulation and Order to Extend Time filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 10/4/21. (ntl) (Entered: 10/04/2021)	
81	10/14/2021	REMARK: The Court recognizes that more than 60 days have passed since the claim construction hearing. The Court currently anticipates issuing its opinion and order regarding claim construction by on or around November 22. (ntl) (Entered: 10/14/2021)	
82	10/18/2021	Joint STATUS REPORT (Interim) by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 10/18/2021)	
83	11/22/2021	MEMORANDUM OPINION re claim construction. Signed by Judge Leonard P. Stark on 11/22/21. (ntl) (Entered: 11/22/2021)	
84	11/22/2021	ORDER re 83 Memorandum Opinion regarding claim construction. Signed by Judge Leonard P. Stark on 11/22/21. (ntl) (Entered: 11/22/2021)	
85	12/06/2021	MOTION for Reargument re 84 Order and Memorandum Opinion on Claim Construction - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order, # 2 7.1.1 Certification)(Mowery, Katharine) (Entered: 12/06/2021)	
86	12/13/2021	NOTICE OF SERVICE of Plaintiff Vaxcel International Co., Ltd.'s Second Reduction of Asserted Claims filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 12/13/2021)	
87	12/16/2021	PROPOSED ORDER Regarding Motion Briefing by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 12/16/2021)	
88	12/16/2021	MOTION to Re-Assert Claim 19 of 916 Patent, Claims 1 and 10 of 902 Patent and Claim 21 of 564 Patent - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 12/16/2021)	
89	12/16/2021	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Motion to Re-Assert - re 88 MOTION to Re-Assert Claim 19 of 916 Patent, Claims 1 and 10 of 902 Patent and Claim 21 of 564 Patent . (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5)(Mowery, Katharine) (Entered: 12/16/2021)	
90	12/16/2021	MOTION for Leave to File an Early Motion for Summary Judgment of Non-Infringement - filed by HeathCo LLC. (Attachments: # 1 Rule 7.1.1 Certificate, # 2 [Proposed] Order)(Golden, Ronald) (Entered: 12/16/2021)	
91	12/16/2021	Letter to The Honorable Leonard P. Stark from Ronald P. Golden III regarding Request for Leave to File Early Motion for Summary Judgment - re 90 MOTION for Leave to File an Early Motion for Summary Judgment of Non-Infringement. (Attachments: # 1 Exhibit A)(Golden, Ronald) (Entered: 12/16/2021)	
92	12/16/2021	MOTION to Require Plaintiff to Narrow Asserted Claims - filed by HeathCo LLC. (Attachments: # 1 Rule 7.1.1 Certificate, # 2 [Proposed] Order)(Golden, Ronald) (Entered: 12/16/2021)	

#	Date	Proceeding Text	Source
93	12/16/2021	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Narrowing Claims - re 92 MOTION to Require Plaintiff to Narrow Asserted Claims . (Brauerman, Stephen) (Entered: 12/16/2021)	
	12/17/2021	SO ORDERED, re 87 PROPOSED ORDER Regarding Motion Briefing by Vaxcel International Co., Ltd Signed by Judge Leonard P. Stark on 12/17/2021. (etg) (Entered: 12/17/2021)	
94	12/20/2021	RESPONSE to Motion re 85 MOTION for Reargument re 84 Order and Memorandum Opinion on Claim Construction filed by HeathCo LLC. (Golden, Ronald) (Entered: 12/20/2021)	
95	12/20/2021	EXHIBIT re 94 Response to Motion / Exhibit 1 to Heathco's Opposition to Vaxcels Motion for Reargument and Reconsideration in Part of the Courts November 22, 2021 Order and Memorandum Opinion on Claim Construction by HeathCo LLC. (Golden, Ronald) (Entered: 12/20/2021)	
96	12/21/2021	REQUEST for Oral Argument by Vaxcel International Co., Ltd. re 88 MOTION to Re-Assert Claim 19 of 916 Patent, Claims 1 and 10 of 902 Patent and Claim 21 of 564 Patent, 85 MOTION for Reargument re 84 Order and Memorandum Opinion on Claim Construction. (Mowery, Katharine) (Entered: 12/21/2021)	
97	12/27/2021	Letter to Honorable Leonard P. Stark from Katherine Lester Mowery regarding Opposition - re 90 MOTION for Leave to File an Early Motion for Summary Judgment of Non-Infringement. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Mowery, Katharine) (Entered: 12/27/2021)	
98	12/27/2021	Letter to Honorable Leonard P. Stark from Katherine Lester Mowery regarding Opposition - re 92 MOTION to Require Plaintiff to Narrow Asserted Claims . (Attachments: # 1 Exhibit A)(Mowery, Katharine) (Entered: 12/27/2021)	
99	12/27/2021	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Opposition to Vaxcel's Motion to Re-Assert Claim 19 of the '916 Patent, Claims 1 and 10 of the '902 Patent and Claim 21 of the '564 Patent - re 88 MOTION to Re-Assert Claim 19 of 916 Patent, Claims 1 and 10 of 902 Patent and Claim 21 of 564 Patent , 89 Letter,. (Attachments: # 1 Exhibit 1)(Brauerman, Stephen) (Entered: 12/27/2021)	
100	12/30/2021	Letter to Honorable Leonard P. Stark from Katharine Lester Mowery regarding Reply in Support - re 88 MOTION to Re-Assert Claim 19 of 916 Patent, Claims 1 and 10 of 902 Patent and Claim 21 of 564 Patent . (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Mowery, Katharine) (Entered: 12/30/2021)	
101	12/30/2021	Letter to The Honorable Leonard P. Stark from Ronald P. Golden III regarding Reply Letter Requesting Leave to File Early Motion for Summary Judgment - re 90 MOTION for Leave to File an Early Motion for Summary Judgment of Non-Infringement. (Attachments: # 1 Exhibit A)(Golden, Ronald) (Entered: 12/30/2021)	
102	12/30/2021	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Reply in Support of Motion to Further Limit Claims - re 92 MOTION to Require Plaintiff to Narrow Asserted Claims . (Brauerman, Stephen) (Entered: 12/30/2021)	
103	01/03/2022	NOTICE of Service of Reduction of Prior Art by HeathCo LLC (Golden, Ronald) (Entered: 01/03/2022)	
104	01/13/2022	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Correction to Statement in HeathCo Letter - re 101 Letter,. (Attachments: # 1 Exhibit 1)(Mowery, Katharine) (Entered: 01/13/2022)	

#	Date	Proceeding Text	Source
105	01/18/2022	NOTICE OF SERVICE of Defendant Heathco LLC's Second Set of Interrogatories (NOS. 13-20) filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/18/2022)	
106	01/19/2022	NOTICE to Take Deposition of Scott Tylicki on February 17, 2022 filed by Vaxcel International Co., Ltd(Delcollo, Renee) (Entered: 01/19/2022)	
107	01/19/2022	NOTICE to Take Deposition of Kenny Ramsey on February 17, 2022 filed by Vaxcel International Co., Ltd(Delcollo, Renee) (Entered: 01/19/2022)	
108	01/19/2022	NOTICE to Take Deposition of HealthCo LLC on February 18, 2022 filed by Vaxcel International Co., Ltd (Attachments: # 1 Schedule A)(Delcollo, Renee) (Entered: 01/19/2022)	
109	01/21/2022	NOTICE to Take Deposition of Chia-Teh Chen on February 10, 2022 at 9:00 a.m. filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/21/2022)	
110	01/21/2022	NOTICE to Take Deposition of Zhou Xu on February 15, 2022 at 9:00 a.m. filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/21/2022)	
111	01/21/2022	NOTICE to Take Deposition of Thomas Chen on February 14, 2022 at 9:00 a.m. filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/21/2022)	
112	01/21/2022	NOTICE to Take Deposition of Richard Chen on February 11, 2022 at 9:00 a.m. filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/21/2022)	
113	01/21/2022	NOTICE to Take Deposition of Plaintiff Vaxcel International Co., Ltd on February 7, 2022 at 9:00 a.m. filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/21/2022)	
114	01/21/2022	NOTICE OF SERVICE of (1) Plaintiff's Second Set of Interrogatories (Nos. 14-28) to Defendant and (2) Plaintiff's Second Set of Requests for the Production of Documents and Things (Nos. 75-86) to Defendant filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 01/21/2022)	
115	01/21/2022	NOTICE OF SERVICE of Defendant Heathco LLC's First Set of Requests for Admission (NOS. 1-62) filed by HeathCo LLC.(Golden, Ronald) (Entered: 01/21/2022)	
116	01/31/2022	MOTION to Stay Discovery Pending Resolution of Pending Motions or in the Alternative to Extend the Deadlines for Discovery - filed by Vaxcel International Co., Ltd (Attachments: # 1 7.1.1 Certification)(Mowery, Katharine) (Entered: 01/31/2022)	
117	01/31/2022	OPENING BRIEF in Support re 116 MOTION to Stay Discovery Pending Resolution of Pending Motions or in the Alternative to Extend the Deadlines for Discovery filed by Vaxcel International Co., LtdAnswering Brief/Response due date per Local Rules is 2/14/2022. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Mowery, Katharine) (Entered: 01/31/2022)	
118	01/31/2022	Letter to Honorable Leonard P. Stark from Katherine L. Mowery regarding Request for expedited Briefing and oral argument on Motion to Stay Discovery - re 116 MOTION to Stay Discovery Pending Resolution of Pending Motions or in the Alternative to Extend the Deadlines for Discovery. (Attachments: # 1 Text of Proposed Order) (Mowery, Katharine) (Entered: 01/31/2022)	
119	02/01/2022	ORAL ORDER: Having considered Vaxcel's letter (D.I. 118) regarding its motion to stay discovery pending resolution of certain motions or, in the alternative, to extend discovery deadlines (see D.I. 116, 117), IT IS HEREBY ORDERED that: (i) HeathCo shall file a responsive letter of no more than five pages by no later than 10:00 a.m. tomorrow, February 2; and (ii) Vaxcel may file a reply letter of no more than two pages by no later than 6:00 p.m.	

#	Date	Proceeding Text	Source
		tomorrow, February 2. ORDERED by Judge Leonard P. Stark on 2/1/22. (ntl) (Entered: 02/01/2022)	
120	02/02/2022	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Response Letter to Vaxcel International Co., Ltd.'s Expedited Motion to Stay - re 116 MOTION to Stay Discovery Pending Resolution of Pending Motions or in the Alternative to Extend the Deadlines for Discovery, 117 Opening Brief in Support, 119 Order,,. (Brauerman, Stephen) (Entered: 02/02/2022)	
121	02/02/2022	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding Reply in Support of Motion to Stay Discovery Pending Resolution of Pending Motions or in the Alternative to Extend the Deadlines for Discovery - re 116 MOTION to Stay Discovery Pending Resolution of Pending Motions or in the Alternative to Extend the Deadlines for Discovery. (Attachments: # 1 Exhibit 1)(Mowery, Katharine) (Entered: 02/02/2022)	
122	02/03/2022	MEMORANDUM ORDER: IT IS HEREBY ORDERED that (a) Vaxcel's motion for reargument and reconsideration (D.I. 85) is DENIED; (b) Vaxcel's motion to reassert certain patent claims (D.I. 88) is GRANTED IN PART and DENIED IN PART; (c) HeathCo's motion for leave to file an early motion for summary judgment of noninfringement (D.I. 90) is DENIED; (d) HeathCo's motion to require Vaxcel to narrow the asserted claims (D.I. 92) is DENIED; and (e) Vaxcel's motion to stay discovery (D.I. 116) is DENIED. Signed by Judge Leonard P. Stark on 2/3/22. (ntl) (Entered: 02/03/2022)	
123	02/04/2022	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Joint Status Report - re 122 Memorandum and Order,,. (Attachments: # 1 Exhibit A)(Brauerman, Stephen) (Entered: 02/04/2022)	
124	02/08/2022	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding request for a Discovery Teleconference. (Mowery, Katharine) (Entered: 02/08/2022)	
125	02/09/2022	REVISED SCHEDULING ORDER: Dispositive Motions due by 6/16/2022. Oral Argument is set for 8/9/2022 at 10:00 AM before Judge Leonard P. Stark. Signed by Judge Leonard P. Stark on 2/8/22. (ntl) (Entered: 02/09/2022)	
126	02/09/2022	NOTICE OF SERVICE of Third Reduction of Asserted Claims, Amended Identification of Accused Products, and Final Claim Charts filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 02/09/2022)	
127	02/16/2022	NOTICE OF SERVICE of Defendant Heathco LLC's Final Invalidity Contentions and Defendant Heathco LLC's Reduction of Prior Art filed by HeathCo LLC.(Brauerman, Stephen) (Entered: 02/16/2022)	
128	02/18/2022	NOTICE to Take Deposition of John Boxell on February 28, 2022 at 9:00 a.m.(EST) filed by HeathCo LLC.(Brauerman, Stephen) (Entered: 02/18/2022)	
129	02/21/2022	NOTICE of Subpoena to Kenny Ramsey by Vaxcel International Co., Ltd. (Attachments: # 1 Exhibit)(Delcollo, Renee) (Entered: 02/21/2022)	
130	02/22/2022	NOTICE OF SERVICE of (1) Vaxcel International Co., Ltd.s Response and Objections to HeathCo, LLCs Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6) and (2) Plaintiffs Objections and Reponses to Defendants First Set Of Requests For Admission (RFA Nos. 1-62) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 02/22/2022)	
131	02/22/2022	NOTICE OF SERVICE of Defendant Heathco LLCs Objections and Responses to Plaintiffs Notice of Deposition Pursuant to Rule	

#	Date	Proceeding Text	Source
		30(B)(6) filed by HeathCo LLC.(Golden, Ronald) (Entered: 02/22/2022)	
132	02/24/2022	Amended NOTICE of Subpoena to Kenny Ramsey by Vaxcel International Co., Ltd. (Attachments: # 1 Exhibit A)(Mowery, Katharine) (Entered: 02/24/2022)	
133	02/24/2022	NOTICE to Take Deposition of Chia-Teh Chen on March 3, 2022 at 9:00 a.m. (EST) filed by HeathCo LLC.(Golden, Ronald) (Entered: 02/24/2022)	
134	02/24/2022	NOTICE OF SERVICE of Plaintiff's Objections and Responses to Defendant's Second Set of Interrogatories (Nos. 13-20) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 02/24/2022)	
135	03/01/2022	NOTICE OF SERVICE of Defendant Heathco LLCs Responses and Objections to Plaintiffs Second Set of Interrogatories (NOS. 14-28) and Defendant Heathco LLCs Restricted-Attorneys Eyes Only-Responses and Objections to Plaintiffs Second Set of Requests for the Production of Documents and Things (NOS. 75-86) filed by HeathCo LLC.(Golden, Ronald) (Entered: 03/01/2022)	
136	03/01/2022	NOTICE OF SERVICE of HeathCo LLC's document production filed by HeathCo LLC.(Golden, Ronald) (Entered: 03/01/2022)	
137	03/02/2022	MOTION for Pro Hac Vice Appearance of Attorney Jonathan Auerbach - filed by HeathCo LLC. (Attachments: # 1 [Proposed] Order, # 2 Certification of Jonathan Auerbach)(Golden, Ronald) (Entered: 03/02/2022)	
	03/02/2022	SO ORDERED, re 137 MOTION for Pro Hac Vice Appearance of Attorney Jonathan Auerbach filed by HeathCo LLC. Signed by Judge Leonard P. Stark on 3/2/22. (ntl) (Entered: 03/02/2022)	
	03/03/2022	Pro Hac Vice Attorney Kevin S. Kudlac and Jonathan Auerbach for HeathCo LLC added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 03/03/2022)	
138	03/04/2022	NOTICE OF SERVICE of Plaintiff's First Supplemental Objections and Responses to Defendant's First Set of Interrogatories (Nos. 4 and 7) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 03/04/2022)	
139	03/08/2022	Letter to The Honorable Leonard P. Stark from Katharine L. Mowery regarding the scheduling of a discovery teleconference - re 14 Scheduling Order,,,. (Mowery, Katharine) (Entered: 03/08/2022)	
140	03/09/2022	NOTICE OF SERVICE of Plaintiff's Second Supplemental and Amended Objections and Responses to Defendant's First Set of Interrogatories (No. 7) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 03/09/2022)	
141	03/10/2022	Letter to The Honorable Leonard P. Stark from Stephen B. Brauerman regarding Scheduling of a Discovery Teleconference - re 14 Scheduling Order,,,. (Brauerman, Stephen) (Entered: 03/10/2022)	
142	03/15/2022	MOTION Plaintiff's Unopposed Motion for Leave to Take Deposition of Kenny Ramsey After Fact Discovery Deadline re 125 Scheduling Order, 129 Notice (Other), 132 Notice (Other) - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 03/15/2022)	
143	03/15/2022	EXHIBIT re 142 MOTION Plaintiff's Unopposed Motion for Leave to Take Deposition of Kenny Ramsey After Fact Discovery Deadline re 125 Scheduling Order, 129 Notice (Other), 132 Notice (Other) by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 03/15/2022)	

#	Date	Proceeding Text	Source
144	03/15/2022	STIPULATION TO EXTEND TIME for Defendant HeathCo LLC to continue the deposition of Richard Chen after close of fact discovery to March 17, 2022 - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 03/15/2022)	
145	03/15/2022	NOTICE OF SERVICE of Defendant HeathCo LLC's Supplemental Invalidity Contentions and Defendant HeathCo LLC's First Supplemental Responses and Objections to Plaintiff's First Set of Interrogatories (Nos. 2, 9, 11) filed by HeathCo LLC.(Golden, Ronald) (Entered: 03/15/2022)	
146	03/15/2022	NOTICE OF SERVICE of Plaintiff's First Supplemental Objections and Responses to Defendant's: (1) First Set of Interrogatories (No. 2) and (2) Second Set of Interrogatories (No. 13) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 03/15/2022)	
147	03/15/2022	Letter to the Honorable Leonard P. Stark from Stephen B. Brauerman regarding discovery dispute - re 14 Scheduling Order,,,. (Brauerman, Stephen) (Entered: 03/15/2022)	
	03/22/2022	Case Reassigned to Judge Leonard P. Stark of the United States Court of Appeals for the Federal Circuit. Please include the initials of the Judge (LPS) after the case number on all documents filed. (etg) (Entered: 03/22/2022)	
148	03/22/2022	ORDER granting 142 MOTION Plaintiff's Unopposed Motion for Leave to Take Deposition of Kenny Ramsey After Fact Discovery Deadline re 125 Scheduling Order, 129 Notice (Other), 132 Notice (Other) . Signed by Judge Leonard P. Stark on 3/22/2022. (etg) (Entered: 03/22/2022)	
	03/22/2022	SO ORDERED, re 144 STIPULATION TO EXTEND TIME for Defendant HeathCo LLC to continue the deposition of Richard Chen after close of fact discovery to March 17, 2022 filed by Vaxcel International Co., Ltd. Signed by Judge Leonard P. Stark on 3/22/2022. (etg) (Entered: 03/22/2022)	
	03/22/2022	Case Reassigned to Vacant Judgeship (2022). Please include initials of VAC after the case number on all documents filed. (etg) (Entered: 03/22/2022)	
149	03/22/2022	ORAL ORDER: This case has been assigned to the District of Delaware's Vacant Judgeship ("VAC"). Detailed information relating to VAC cases may be found in the Court's Announcement of March 3, 2022 and Standing Order No. 2022-3 (March 16, 2022), which are available on the Court's website. Consistent with the foregoing Announcement and Standing Order, IT IS HEREBY ORDERED that: The parties shall file the "Notice of Consent or Absence of Consent to Proceed Before A United States Magistrate Judge," being docketed along with the instant Order, no later than fourteen (14) days after the date of this Order. IT IS FURTHER ORDERED that any order referring any part of this case to a Magistrate Judge is VACATED. Unless the parties consent to having a Magistrate Judge handle this case, a referral order will be entered to permit a Magistrate Judge (to be selected by the Court) to do only the following: (a) adjudicate discovery (including fact and expert discovery) and protective order disputes; (b) issue or modify a scheduling order; (c) review stipulated orders and pro hac vice motions; and (d) review requests for mediation in cases other than patent and securities cases. IT IS FURTHER ORDERED that any scheduling order that has been entered in this case is AMENDED such as follows: (a) the dates for any motions hearings are VACATED; and (b) the dates for any claim construction hearings are VACATED. Issued by the Clerk of Court on 3/22/2022. (etg) (Entered: 03/22/2022)	
150	03/22/2022	VAC Notice, Consent, Non-Consent, Magistrate Referral (etg) (Entered: 03/22/2022)	

#	Date	Proceeding Text	Source
151	03/23/2022	MOTION to Strike Untimely Invalidity Contentions - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 03/23/2022)	
152	03/23/2022	[SEALED] OPENING BRIEF in Support re 151 MOTION to Strike Untimely Invalidity Contentions filed by Vaxcel International Co., LtdAnswering Brief/Response due date per Local Rules is 4/6/2022. (Attachments: # 1 Exhibit A - C)(Mowery, Katharine) (Entered: 03/23/2022)	
153	03/24/2022	NOTICE to Take Deposition of Kenny Ramsey on April 6, 2022 filed by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A - Subpoena)(Mowery, Katharine) (Entered: 03/24/2022)	
154	03/24/2022	NOTICE OF SERVICE of Plaintiff's First Supplemental Objections and Responses to Defendant's Second Set of Interrogatories (No. 19) filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 03/24/2022)	
155	03/30/2022	[SEALED] Letter to Vacant Judgeship from Stephen B. Brauerman regarding Heathco LLC's Response to Vaxcel International Co., Ltd.'s Motion to Strike Contentions - re 151 MOTION to Strike Untimely Invalidity Contentions. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Certificate of Service)(Brauerman, Stephen) (Entered: 03/30/2022)	
156	03/30/2022	REDACTED VERSION of 152 Opening Brief in Support, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A-C)(Mowery, Katharine) (Entered: 03/30/2022)	
157	03/31/2022	NOTICE OF SERVICE of Defendant Heathco LLC's Second Supplemental Invalidity Contentions filed by HeathCo LLC.(Golden, Ronald) (Entered: 03/31/2022)	
158	03/31/2022	VAC Magistrate Non-Consent completed by the parties filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 03/31/2022)	
159	04/01/2022	NOTICE OF SERVICE of Supplemental Amended Identification of Accused Products filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 04/01/2022)	
	04/04/2022	CASE NO LONGER REFERRED to Chief Magistrate Judge Thynge for the purpose of exploring ADR. Pursuant to the Court's Standing Order No. 2022-2, dated March 14, 2022, "[u]nless otherwise directed by the Court, Magistrate Judges will no longer engage in alternative dispute resolution of patent and securities cases." See also 28 U.S.C. 652(b). (Taylor, Daniel) (Entered: 04/04/2022)	
160	04/04/2022	Letter to Vacant Judgeship from Stephen B. Brauerman regarding Request for Discovery Teleconference. (Brauerman, Stephen) (Entered: 04/04/2022)	
161	04/04/2022	[SEALED] REPLY BRIEF re 151 MOTION to Strike Untimely Invalidity Contentions filed by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Mowery, Katharine) (Entered: 04/04/2022)	
162	04/04/2022	Letter to U.S. District Court for the District of Delaware from Katharine L. Mowery regarding teleconference - re 151 MOTION to Strike Untimely Invalidity Contentions. (Mowery, Katharine) (Entered: 04/04/2022)	
163	04/06/2022	ORAL ORDER: The parties having filed the appropriate form advising the Court that they do not unanimously consent to the jurisdiction of a Magistrate Judge, IT IS HEREBY ORDERED that, until further order of the Court, this case will remain assigned to the VAC (2022) docket. IT IS FURTHER ORDERED that this case	

#	Date	Proceeding Text	Source
		is referred to Magistrate Judge Christopher J. Burke solely for the following purposes: (1) to adjudicate discovery (including fact and expert discovery) and protective order disputes; (2) to issue or modify a scheduling order; (3) to review stipulated orders and pro hac vice motions; and (4) to review requests for mediation in cases other than patent and securities cases. Issued by the Clerk of Court on 4/6/22. (ntl) (Entered: 04/06/2022)	
164	04/06/2022	REDACTED VERSION of 155 Letter,, by HeathCo LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16)(Brauerman, Stephen) (Entered: 04/06/2022)	
165	04/08/2022	NOTICE OF SERVICE of Defendant Heathco LLC's Expert Report of Thomas M. Katona, PH.D. filed by HeathCo LLC.(Golden, Ronald) (Entered: 04/08/2022)	
166	04/08/2022	ORAL ORDER: The Court, having reviewed the case history in light of the April 6, 2022 referral, hereby ORDERS that going forward, the procedures for resolving a dispute relating to fact discovery shall be as follows: Should counsel find, after good faith efforts including verbal communication among Delaware and Lead Counsel for all parties to the dispute, that they are unable to resolve a discovery matter, the parties involved in the dispute shall submit a joint letter with the text set out in the Court's standard Rule 16 Scheduling Order - Patent, which can be found in the "Forms" tab of Magistrate Judge Burke's page on the District Court's website. The moving party (i.e., the party seeking relief from the Court) should also file a Motion For Teleconference To Resolve Discovery Dispute. The suggested text for this motion can be found in the same Forms tab. The Court will thereafter set a discovery dispute telephone conference and letter briefing schedule. Ordered by Judge Christopher J. Burke on 4/8/2022. (dlb) (Entered: 04/08/2022)	
167	04/08/2022	NOTICE OF SERVICE of (1) the expert report of Paul Min and (2) the expert report of David Haas filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 04/08/2022)	
	04/08/2022	REMARK: The parties should be aware that the Court encourages the participation of newer attorneys in courtroom proceedings and at oral argument. Please see the Court's Standing Order Regarding Courtroom Opportunities for Newer Attorneys, a link to which is provided here for the parties' convenience:http://www.ded.uscourts.gov/sites/ded/files/forms/StandingOrder2017.pdf (dlb) (Entered: 04/08/2022)	
	04/08/2022	Remark: The parties should follow the Courts Standing Order Regarding Courtesy Copies, a copy of which is found on Judge Burkes portion of the District Courts webpage: https://www.ded.uscourts.gov/sites/ded/files/CJB%20Standing%2 0Order% 20re%20Copies%202021.pdf (dlb) (Entered: 04/08/2022)	
168	04/08/2022	MOTION for Leave to File an Amended Answer - filed by HeathCo LLC. (Attachments: # 1 [Proposed] Order)(Brauerman, Stephen) (Entered: 04/08/2022)	
169	04/08/2022	[SEALED] Letter to Vacant Judgeship from Stephen B. Brauerman regarding Heathco, LLC's Motion for Leave to Amend its Answer to Assert Defenses and Counterclaims of Unclean Hands and Inequitable Conduct - re 168 MOTION for Leave to File an Amended Answer. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Certificate of Service)(Brauerman, Stephen) (Entered: 04/08/2022)	

#	Date	Proceeding Text	Source
170	04/11/2022	REDACTED VERSION of 161 Reply Brief by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A-B)(Delcollo, Renee) (Entered: 04/11/2022)	
171	04/13/2022	Report to the Commissioner of Patents and Trademarks for Patent/Trademark Number(s) 10,136,503;10,187,947;10,491,032;10,225,902;10,516,292 See Exhibit A for Additional Patent/Trademark Numbers. (Attachments: # 1 Exhibit A)(Mowery, Katharine) (Entered: 04/13/2022)	
172	04/18/2022	Letter to The Honorable Christopher J. Burke from Stephen B. Brauerman regarding Discovery Letter - re 166 Oral Order,,,,. (Brauerman, Stephen) (Entered: 04/18/2022)	
173	04/18/2022	[SEALED] ANSWERING BRIEF in Opposition re 168 MOTION for Leave to File an Amended Answer filed by Vaxcel International Co., LtdReply Brief due date per Local Rules is 4/25/2022. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Mowery, Katharine) (Entered: 04/18/2022)	
174	04/18/2022	STIPULATION TO EXTEND TIME for Defendant HeathCo LLC's deadline to file a public version of its Letter to the Court Regarding HeathCo, LLC's Motion for Leave to Amend its Answer to Assert Defenses and Counterclaims of Unclean Hands and Inequitable Conduct is extended to April 20, 2022 - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 04/18/2022)	
	04/19/2022	SO ORDERED D.I. 174 STIPULATION TO EXTEND TIME for Defendant HeathCo LLC's deadline to file a public version of its Letter to the Court Regarding HeathCo, LLC's Motion for Leave to Amend its Answer to Assert Defenses and Counterclaims of Unclean Hands and Inequ filed by Vaxcel International Co., Ltd. Ordered by Judge Christopher J. Burke on 4/19/2022. (mlc) (Entered: 04/19/2022)	
175	04/20/2022	ORAL ORDER Setting Teleconference: The Court, having reviewed the parties' April 18, 2022 letter requesting a discovery dispute teleconference regarding six discovery disputes, (D.I. 172), hereby ORDERS as follows: (1) With respect to the four discovery disputes raised by Defendant (Items 1-4), a discovery dispute teleconference is set for May 9, 2022 at 3:00 pm before Judge Christopher J. Burke. By April 26, 2022, Defendant shall file with the Court a letter, not to exceed three (3) single-spaced pages, in no less than 12-point font, outlining the issues in dispute and its position on those issues. By May 2, 2022, Plaintiff may file a letter, not to exceed three (3) single-spaced pages, in no less than 12-point font, outlining its reasons for its opposition. By May 2, 2022, the parties shall jointly provide the Court's Courtroom Deputy, Deborah Benyo, with a dial-in number via e-mail to use for the call. By May 2, 2022, Defendant shall file a "Motion for Teleconference to Resolve Discovery Dispute" with regard to this teleconference, the text of which can be found in the "Forms" tab of Judge Burke's page on the District Court's website.; (2) With respect to the two discovery disputes raised by Plaintiff (Items 5-6), a discovery dispute teleconference is set for May 16, 2022 at 2:00 pm before Judge Christopher J. Burke. By April 27, 2022, Plaintiff shall file with the Court a letter, not to exceed three (3) single-spaced pages, in no less than 12-point font, outlining the issues in dispute and its position on those issues. By May 4, 2022, Defendant shall file a letter, not to exceed three (3) single-spaced pages, in no less than 12-point font, outlining its reasons for its opposition. By no later than May 4, 2022, the parties shall jointly provide the Court's Courtroom Deputy, Deborah Benyo, with a dial-in number via e-mail to use for the call. By May 4, 2022, Plaintiff shall file a "Motion for Teleconference to Resolve Discovery Dispute" with regard to this teleconference, the text of	

#	Date	Proceeding Text	Source
		which can be found in the "Forms" tab of Judge Burke's page on the District Court's website.; (3) For all disputes, the parties should consult and follow Judge Burke's "Guidelines for Discovery Disputes," which is found in the "Guidelines" tab on Judge Burke's portion of the District Court's website.; and (4) The Court may choose to resolve the disputes prior to the telephone conference(s) and will, in that event, cancel the conference(s) (however, if any party advises the Court in advance that a newer attorney will argue with respect to the dispute(s), see Standing Order Regarding Courtroom Opportunities for Newer Attorneys, https://www.ded.uscourts.gov/sites/ded/files/StandingOrder2017.p df, then the Court will go forward with the conference). Ordered by Judge Christopher J. Burke on 4/20/2022. (dlb) (Entered: 04/20/2022)	
176	04/20/2022	ORAL ORDER: The Court, having reviewed the parties' April 18, 2022 letter with respect to Items 7-11, (D.I. 172), the Court hereby ORDERS as follows: (1) With respect to Items 7 and 9-11 (regarding Plaintiffs motion to strike, (D.I. 151) and the parties' anticipated motions to strike), the parties shall follow the procedures set out in Paragraph 10 of the Scheduling Order, (D.I. 14 at 9). Because the parties did not consent to have a United States Magistrate Judge conduct all proceedings in this case, (D.I. 158), motions to strike are not within the scope of the Courts referral, (D.I. 163). Accordingly, any such motions will be resolved upon reassignment to an Article III judge.; and (2) With regard to Item 8 (Defendant's Motion for Leave to Amend Answer, (D.I. 168)), the parties shall follow the procedures set out in Paragraph 9 of the Scheduling Order, (D.I. 14 at 8-9). Because the parties did not consent to have a United States Magistrate Judge conduct all proceedings in this case, (D.I. 158), the motion is not within the scope of the Courts referral, (D.I. 163). Accordingly, the motion will be resolved upon reassignment to an Article III judge. Ordered by Judge Christopher J. Burke on 4/20/2022. (dlb) (Entered: 04/20/2022)	
177	04/20/2022	REDACTED VERSION of 169 Letter, by HeathCo LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Brauerman, Stephen) (Entered: 04/20/2022)	
178	04/20/2022	Second MOTION to Strike Untimely Invalidity Contentions - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 04/20/2022)	
179	04/20/2022	[SEALED] OPENING BRIEF in Support re 178 Second MOTION to Strike Untimely Invalidity Contentions filed by Vaxcel International Co., LtdAnswering Brief/Response due date per Local Rules is 5/4/2022. (Attachments: # 1 Exhibit A-B, # 2 Exhibit C-D, # 3 Exhibit E-F)(Mowery, Katharine) (Entered: 04/20/2022)	
180	04/21/2022	[SEALED] Letter to The Honorable Christopher J. Burke from Stephen B. Brauerman regarding Heathco LLC's Reply in Support of its Motion to Amend - re 168 MOTION for Leave to File an Amended Answer, 169 Letter,. (Attachments: # 1 Certificate of Service)(Brauerman, Stephen) (Entered: 04/21/2022)	
181	04/25/2022	REDACTED VERSION of 173 Answering Brief in Opposition, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Delcollo, Renee) (Entered: 04/25/2022)	
182	04/26/2022	[SEALED] Letter to The Honorable Christopher J. Burke from Stephen B. Brauerman regarding Heathco LLC's Reply in Support of Motion Relating to Four Discovery Issues - re 172 Letter, 175 Order Setting Teleconference,,,,,,,,,,. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Certificate of Service)(Brauerman, Stephen) (Entered:	

#	Date	Proceeding Text	Source
		04/26/2022)	
183	04/27/2022	REDACTED VERSION of 179 Opening Brief in Support, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A - B, # 2 Exhibit C - D, # 3 Exhibit E - F)(Mowery, Katharine) (Entered: 04/27/2022)	
184	04/27/2022	[SEALED] Letter to Honorable Christopher J. Burke from Katharine Lester Mowery regarding in Support of its Motion for Protective Order to Protect the Contents of a Confidential Settlement Agreement and Any Related Testimony and Motion to Extend the Deadline for Its Final Infringement Contentions and Updated List of Accused Products. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Text of Proposed Order)(Mowery, Katharine) (Entered: 04/27/2022)	
185	04/27/2022	[SEALED] Letter to The Honorable Christopher J. Burke from Stephen B. Brauerman regarding Heathco LLC's Opposition to Second Motion to Strike - re 178 Second MOTION to Strike Untimely Invalidity Contentions . (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Certificate of Service)(Brauerman, Stephen) (Entered: 04/27/2022)	
186	04/28/2022	REDACTED VERSION of 180 Letter, by HeathCo LLC. (Brauerman, Stephen) (Entered: 04/28/2022)	
187	05/02/2022	MOTION for Teleconference to Resolve Discovery Dispute re 175 Order Setting Teleconference,,,,,,,,,, - filed by HeathCo LLC. (Golden, Ronald) (Entered: 05/02/2022)	
188	05/02/2022	[SEALED] Letter to Honorable Christopher J. Burke from Katharine Lester Mowery regarding Reply Letter in Support of Its Second Motion to Strike Untimely Invalidity Contentions. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3)(Mowery, Katharine) (Entered: 05/02/2022)	
189	05/02/2022	Joint Letter to Vacant Judgeship from Katharine Lester Mowery regarding Joint Request for Teleconference. (Mowery, Katharine) (Entered: 05/02/2022)	
190	05/02/2022	[SEALED] Letter to The Honorable Christopher J. Burke from Katharine L. Mowery regarding Opposition to Heathco LLC's Motion Relating to Four Discovery Issues. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H-1, # 9 Exhibit H-2, # 10 Exhibit I, # 11 Exhibit J, # 12 Exhibit K, # 13 Exhibit L, # 14 Exhibit M, # 15 Exhibit N, # 16 Exhibit O, # 17 Exhibit P)(Mowery, Katharine) (Entered: 05/02/2022)	
191	05/03/2022	REDACTED VERSION of 182 Letter, by HeathCo LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Certificate of Service)(Brauerman, Stephen) (Entered: 05/03/2022)	
192	05/04/2022	MOTION for Teleconference to Resolve Discovery Disputes - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 05/04/2022)	
193	05/04/2022	[SEALED] Letter to The Honorable Christopher J. Burke from Stephen B. Brauerman regarding Heathco LLC's Opposition to Plaintiff Vaxcel International Co., Ltd.'s Motion for Protective Order and Motion to Extend the Deadline for its Final Infringement Contentions (D.I. 184) - re 184 Letter,,. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Certificate of Service)(Brauerman, Stephen) (Entered: 05/04/2022)	
194	05/04/2022	Letter to Vacant Judgeship from Stephen B. Brauerman regarding Request for a Teleconference to address Defendant HeathCo LLC's Motion for Leave to Amend Answer (D.I. 168) - re 168 MOTION for Leave to File an Amended Answer, 169 Letter, 173	

#	Date	Proceeding Text	Source
		Answering Brief in Opposition, 177 Redacted Document. (Brauerman, Stephen) (Main Document 194 replaced on 5/5/2022) (ntl). Modified on 5/5/2022 (ntl). (Entered: 05/04/2022)	
195	05/04/2022	REDACTED VERSION of 185 Letter, by HeathCo LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Certificate of Service)(Brauerman, Stephen) (Entered: 05/04/2022)	
196	05/04/2022	STIPULATION TO EXTEND TIME Vaxcel International Co., Ltd.'s deadline to file its redactions to D.I. 184 from May 4, 2022 to May 11, 2022 - filed by HeathCo LLC. (Golden, Ronald) (Entered: 05/04/2022)	
	05/05/2022	CORRECTING ENTRY: Corrected letter added to D.I. 194 per request of counsel. (ntl) (Entered: 05/05/2022)	
	05/05/2022	SO ORDERED D.I. 196 STIPULATION TO EXTEND TIME Vaxcel International Co., Ltd.'s deadline to file its redactions to D.I. 184 from May 4, 2022 to May 11, 2022 filed by HeathCo LLC. Ordered by Judge Christopher J. Burke on 5/5/2022. (dlb) (Entered: 05/05/2022)	
	05/09/2022	Minute Entry for proceedings held before Judge Christopher J. Burke - Discovery dispute teleconference held on 5/9/2022 regarding Defendant's discovery dispute motion, (D.I. 187). The Court granted-in-part and denied-in-part Defendant's requests as described during the teleconference. With regard to the e-mails relating to Mr. Boxell's deposition, the Court ordered Plaintiff to produce in camera redacted and unredacted versions of the e-mails as well as the relevant portion of Mr. Boxell's deposition transcript by the close of business on May 10, 2022. The Court will then issue an order regarding that portion of the dispute. The transcript of the teleconference will serve as the substance of the Court's order. (Court Reporter Michele Rolfe. Clerk: M. Crawford) Appearances: K. Mowery, R. Delcollo, R. Lehrer, J. Boyd for Plaintiff; R. Golden, D. Radulescu, E. Lahav, K. Kudlac for Defendant. (mlc) (Entered: 05/09/2022)	
197	05/09/2022	REDACTED VERSION of 188 Letter, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3)(Delcollo, Renee) (Entered: 05/09/2022)	
198	05/09/2022	REDACTED VERSION of 190 Letter,, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C-D, # 4 Exhibit E, # 5 Exhibit F, # 6 Exhibit G, # 7 Exhibit H-1, # 8 Exhibit H-2, # 9 Exhibit I,J,K, # 10 Exhibit L, # 11 Exhibit M, # 12 Exhibit N, # 13 Exhibit O, # 14 Exhibit P)(Delcollo, Renee) (Entered: 05/09/2022)	
199	05/10/2022	Letter to The Honorable Christopher J. Burke from Katharine L. Mowery regarding in camera submission - re Discovery Conference,,,. (Mowery, Katharine) (Entered: 05/10/2022)	
200	05/10/2022	NOTICE OF SERVICE of Rebuttal Report of Paul S. Min, Ph.D. Regarding Validity of U.S. Patent Nos. 9,326,362, 10,136,503, 10,154,564, and 10,667,367 filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 05/10/2022)	
201	05/10/2022	NOTICE of Service of (i) Rebuttal Expert Report of Ryan LaMotta; (ii) Expert Report of Thomas M. Katona, PH.D. Concerning Non-Infringement of U.S. Patent Nos. 9,326,362; 10,154,564; 10,667,367; and 10,136,503 by HeathCo LLC (Golden, Ronald) (Entered: 05/10/2022)	
202	05/11/2022	REDACTED VERSION of 184 Letter,, by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Text of Proposed Order Exhibit F)(Delcollo, Renee) (Entered: 05/11/2022)	

#	Date	Proceeding Text	Source
203	05/11/2022	REDACTED VERSION of 193 Letter, by HeathCo LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Certificate of Service)(Golden, Ronald) (Entered: 05/11/2022)	
204	05/13/2022	ORAL ORDER: The Court, having reviewed the remaining unresolved portion of Defendant's discovery dispute motion, (D.I. 187), in which it requests that Plaintiff be ordered to produce "all emails that refreshed Mr. Boxell's recollection, including the unredacted copies of the emails in [D.I. 182, ex. 2,]" (D.I. 182 at 2), and the parties' letter briefs relating thereto, (D.I. 182; D.I. 190), as well as Plaintiff's in camera submission of the relevant emails and the relevant portion of Mr. Boxell's deposition transcript, (D.I. 199), and having heard argument on May 9, 2022, hereby GRANTS this portion of Defendant's motion as follows. Plaintiff asserts that the redacted portions of the emails should not be produced because they are protected by the attorney-client privilege. (5/9/22 Transcript at 33) However, to the extent the redacted portions of the emails would even be protected by the attorney-client privilege (and the Court is not sure that they would), Plaintiff has waived any such privilege by producing unredacted portions of the relevant emails (which content consists largely of responses to factual questions regarding a sales spreadsheet). See, e.g., First Quality Tissue, LLC v. Irving Consumer Prods. Ltd., Civil Action No. 19-428-RGA, 2022 WL 971581, at *2-3 (D. Del. Mar. 31, 2022); Bristol-Myers Co. v. Sigma Chem. Co., CIV. A. No. 87-549-JJF, 1988 WL 147409, at *2 (D. Del. Jan. 20, 1988). Accordingly, by no later than May 18, 2022, Plaintiff shall produce unredacted copies of the emails in D.I. 182, ex. 2. Ordered by Judge Christopher J. Burke on 5/13/2022. (dlb) (Entered: 05/13/2022)	
	05/16/2022	Minute Entry for proceedings held before Judge Christopher J. Burke - Discovery dispute teleconference held on 5/16/2022 regarding Plaintiff's discovery dispute motion, (D.I. 91). The Court resolved the first issue during the teleconference. The Court will issue an order regarding the second issue. (Court Reporter Michele Rolfe. Clerk: M. Crawford) Appearances: K. Mowery, R. Delcollo, R. Lehrer and J. Boyd for Plaintiff; S. Brauerman, D. Radulescu, E. Lahav, and J. Auerbach for Defendant. (mlc) (Entered: 05/16/2022)	
205	05/17/2022	NOTICE OF SERVICE of 1) Reply Expert Report of Paul S. Min, Ph.D., Regarding Infringement of U.S. Patent Nos. 9,326,362, 10,136,503, 10,154,564 and 10,667,367 and 2) Reply Expert Report of David A. Haas filed by Vaxcel International Co., Ltd(Mowery, Katharine) (Entered: 05/17/2022)	
206	05/17/2022	NOTICE OF SERVICE of Defendant Heathco LLC's Reply Expert Report of Thomas M. Katona, Ph.D. Concerning Invalidity of U.S. Patent Nos. 10,136,503; 9,326,362; 10,154,564; and 10,667,367 filed by HeathCo LLC.(Golden, Ronald) (Entered: 05/17/2022)	
207	05/18/2022	Official Transcript of Teleconference held on 05.09.2022 before Judge Christopher Burke. Court Reporter/Transcriber Michele Rolfe, Email: michele_rolfe@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2022. Redacted Transcript Deadline set for 6/21/2022. Release of Transcript Restriction set for 8/16/2022. (Rolfe, Michele) (Entered: 05/18/2022)	
208	05/18/2022	Official Transcript of Discovery Dispute held on 05.16.2022 before Judge Christopher Burke. Court Reporter/Transcriber Michele Rofle,Email: michele_rolfe@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the	

#	Date	Proceeding Text	Source
		Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2022. Redacted Transcript Deadline set for 6/21/2022. Release of Transcript Restriction set for 8/16/2022. (Rolfe, Michele) (Entered: 05/18/2022)	
209	06/03/2022	MOTION for Leave to Serve Discovery After Fact Discovery Deadline - filed by HeathCo LLC. (Golden, Ronald) (Entered: 06/03/2022)	
	06/03/2022	SO ORDERED D.I. 209 Unopposed MOTION for Leave to Serve Discovery After Fact Discovery Deadline filed by HeathCo LLC. Ordered by Judge Christopher J. Burke on 6/3/2022. (dlb) (Entered: 06/03/2022)	
	06/03/2022	CORRECTING ENTRY: D.I. 210 has been removed from this docket and entered in error. (dlb) (Entered: 06/03/2022)	
210	06/07/2022	NOTICE OF SERVICE of Subpoenas to Produce Documents and to Testify at a Deposition to Minka Lighting, Inc. filed by HeathCo LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B)(Golden, Ronald) (Entered: 06/07/2022)	
211	06/16/2022	MOTION to Exclude Opinions of Ryan LaMotta - filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 06/16/2022)	
212	06/16/2022	[SEALED] OPENING BRIEF in Support re 211 MOTION to Exclude Opinions of Ryan LaMotta filed by Vaxcel International Co., LtdAnswering Brief/Response due date per Local Rules is 6/30/2022. (Mowery, Katharine) (Entered: 06/16/2022)	
213	06/16/2022	[SEALED] APPENDIX re 211 MOTION to Exclude Opinions of Ryan LaMotta, 212 Opening Brief in Support by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit 1-9)(Mowery, Katharine) (Entered: 06/16/2022)	
214	06/16/2022	MOTION for Summary Judgment / Defendant Heathco LLC's Motion for Partial Summary Judgment of Non-Infringement of U.S. Patent Nos. 10,136,503 and 9,326,362 (Motions 1A-1D) - filed by HeathCo LLC. (Attachments: # 1 [Proposed] Order)(Brauerman, Stephen) (Entered: 06/16/2022)	
215	06/16/2022	MOTION to Exclude Opinions of Thomas M. Katona, Ph.D filed by Vaxcel International Co., Ltd (Attachments: # 1 Text of Proposed Order)(Mowery, Katharine) (Entered: 06/16/2022)	
216	06/16/2022	[SEALED] OPENING BRIEF in Support re 215 MOTION to Exclude Opinions of Thomas M. Katona, Ph.D. filed by Vaxcel International Co., LtdAnswering Brief/Response due date per Local Rules is 6/30/2022. (Mowery, Katharine) (Entered: 06/16/2022)	
217	06/16/2022	MOTION for Summary Judgment / Defendant Heathco LLC's Motion for Partial Summary Judgment of Non-Infringement and Invalidity of U.S. Patent Nos. 10,154,564 and 10,667,367 (Motions 2A - 2E) - filed by HeathCo LLC. (Attachments: # 1 [Proposed] Order)(Brauerman, Stephen) (Entered: 06/16/2022)	
218	06/16/2022	[SEALED] APPENDIX re 216 Opening Brief in Support, 215 MOTION to Exclude Opinions of Thomas M. Katona, Ph.D. by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit 1-9)(Mowery, Katharine) (Entered: 06/16/2022)	
219	06/16/2022	MOTION / Defendant Heathco LLC's Motion to Exclude Testimony of David A. Haas and Motion for Partial Summary Judgment of No Pre-Suit Damages (Motions 3A-3B) - filed by HeathCo LLC. (Attachments: # 1 [Proposed] Order)(Brauerman, Stephen) (Entered: 06/16/2022)	
220	06/16/2022	[SEALED] OPENING BRIEF in Support re 214 MOTION for Summary Judgment / Defendant Heathco LLC's Motion for Partial	

#	Date	Proceeding Text	Source
		Summary Judgment of Non-Infringement of U.S. Patent Nos. 10,136,503 and 9,326,362 (Motions 1A-1D) filed by HeathCo LLC.Answering Brief/Response due date per Local Rules is 6/30/2022. (Attachments: # 1 Certificate of Service)(Brauerman, Stephen) (Entered: 06/16/2022)	
221	06/16/2022	[SEALED] OPENING BRIEF in Support re 217 MOTION for Summary Judgment / Defendant Heathco LLC's Motion for Partial Summary Judgment of Non-Infringement and Invalidity of U.S. Patent Nos. 10,154,564 and 10,667,367 (Motions 2A - 2E) filed by HeathCo LLC.Answering Brief/Response due date per Local Rules is 6/30/2022. (Attachments: # 1 Certificate of Service)(Brauerman, Stephen) (Entered: 06/16/2022)	
222	06/16/2022	[SEALED] OPENING BRIEF in Support re 219 MOTION / Defendant Heathco LLC's Motion to Exclude Testimony of David A. Haas and Motion for Partial Summary Judgment of No Pre-Suit Damages (Motions 3A-3B) filed by HeathCo LLC.Answering Brief/Response due date per Local Rules is 6/30/2022. (Attachments: # 1 Certificate of Service)(Brauerman, Stephen) (Entered: 06/16/2022)	
223	06/16/2022	[SEALED] DECLARATION re 219 MOTION / Defendant Heathco LLC's Motion to Exclude Testimony of David A. Haas and Motion for Partial Summary Judgment of No Pre-Suit Damages (Motions 3A-3B), 214 MOTION for Summary Judgment / Defendant Heathco LLC's Motion for Partial Summary Judgment of Non-Infringement of U.S. Patent Nos. 10,136,503 and 9,326,362 (Motions 1A-1D), 217 MOTION for Summary Judgment / Defendant Heathco LLC's Motion for Partial Summary Judgment of Non-Infringement and Invalidity of U.S. Patent Nos. 10,154,564 and 10,667,367 (Motions 2A - 2E) / Declaration of Etai Lahav by HeathCo LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit 31, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35, # 36 Exhibit 36, # 37 Exhibit 37, # 38 Exhibit 38, # 39 Exhibit 39, # 40 Exhibit 40, # 41 Certificate of Service)(Brauerman, Stephen) (Entered: 06/16/2022)	
224	06/23/2022	STIPULATION TO EXTEND TIME to File Public Versions (D.I. 212-13, 216, 218, 220-23) to June 27, 2022 - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 06/23/2022)	
	06/23/2022	SO ORDERED D.I. 224 STIPULATION TO EXTEND TIME to File Public Versions (D.I. 212-13, 216, 218, 220-23) to June 27, 2022 filed by Vaxcel International Co., Ltd. Ordered by Judge Christopher J. Burke on 6/23/2022. (dlb) (Entered: 06/23/2022)	
225	06/27/2022	STIPULATION TO EXTEND TIME to File Public Versions (D.I. 212-13, 216, 218, 220-23) to June 28, 2022 - filed by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 06/27/2022)	
	06/27/2022	SO ORDERED D.I. 225 STIPULATION TO EXTEND TIME to File Public Versions (D.I. 212-13, 216, 218, 220-23) to June 28, 2022 filed by Vaxcel International Co., Ltd. Ordered by Judge Christopher J. Burke on 6/27/2022. (dlb) (Entered: 06/27/2022)	
226	06/28/2022	ORAL ORDER: The Court, having reviewed the remaining unresolved portion of Plaintiff's discovery dispute motion ("motion"), (D.I. 192), in which Plaintiff requests that the Court extend the deadline for final infringement contentions to February	

#	Date	Proceeding Text	Source
		9, 2022, (D.I. 184 at 1), and the parties' letter briefs relating	
		thereto, (D.I. 184; D.I. 193), and having heard argument on May	
		16, 2022, (D.I. 208), hereby ORDERS as follows with respect to	
		the motion: There was a deadline in the applicable Scheduling	
		Order for Plaintiff to file its final infringement contentions, and both	
		sides agree that: (1) this deadline was January 6, 2022; and (2)	
		Plaintiff did not, in fact, file its final infringement contentions by	
		that deadline (instead, it filed those contentions a little over a	
		month later, on February 9, 2022). (D.I. 184 at 1-2; D.I. 193 at 2-3)	
		As a result, Plaintiff's motion here seeks an alteration to a	
		Scheduling Order deadline. Therefore, the motion implicates the	
		good cause standard under Fed. R. Civ. P. 16(b)(4). Lipocine Inc.	
		v. Clarus Therapeutics, Inc., C.A. No. 19-622 (WCB), 2020 WL	
		4794576, at *3 (D. Del. Aug. 18, 2020). The good cause standard	
		hinges on the diligence of the moving party; in order to show good	
		cause, a movant must first meet the threshold requirement that it	
		demonstrate that, despite diligence, the proposed new filing could	
		not have reasonably been made in a timely manner. Id. Here, it is	
		clear that Plaintiff has not demonstrated diligence. Plaintiff simply	
		made a strategic choice not to meet the January 6, 2022 deadline	
		for filing final infringement contentions; Plaintiff says that it did so	
		"because [in its view] the fate of the asserted claims remained	
		uncertain" as of that January 6 deadline. (Plaintiff argues that this	
		uncertainty was not cleared up until February 3, 2022, when the	
		District Court ruled on several post-Markman-hearing-related	
		motions.). (D.I. 184 at 3) Indeed, Plaintiff's counsel acknowledged	
		that Plaintiff could have filed final infringement contentions by	
		January 6, 2022 and could thereafter have sought to modify such	
		contentions in light of the District Court's February 3, 2022 ruling	
		(if it turned out there was a need to do so); counsel candidly	
		admitted that Plaintiff's failure to meet the January 6 deadline was	
		a strategic "mistake." (D.I. 208 at 24, 32) (By the way, Plaintiff's	
		counsel was right to make this admission, no matter its impact on	
		the outcome of this motion since the truth of the admission was	
		patently clear from the record, and because counsel's failure to do	
		so would only have harmed Plaintiff's credibility in the case more	
		broadly.). However, "[a] strategic mistake does not equate to a	
		showing of good cause under Rule 16." iCeutica Pty Ltd v.	
		Novitium Pharma LLC, Civil Action No. 18-599-CFC, 2019 WL	
		4604029, at *2 (D. Del. Sept. 23, 2019) (internal quotation marks	
		and citation omitted). And because the good cause standard is	
		applicable here, Plaintiff cannot turn to the Pennypack factors to	
		try to save its belatedly-filed contentions. See Lipocine Inc., 2020	
		WL 4794576, at * 9 n.4 (noting that because an issue of	
		untimeliness before the court related to a motion to file an	
		amended answer after a related scheduling order deadline had	
		passed, the Pennypack factors did not apply and the good cause	
		standard controlled instead); Finjan, Inc. v. Rapid7, Inc., C.A. No.	
		18-1519-MN, 2020 WL 5798545, at *5-6 (D. Del. Sept. 29, 2020)	
		(recognizing that if a motion is one that relates to a scheduling	
		order violation, then the good cause standard would apply, and	
		resort to the Pennypack factors would not be proper); see also	
		Faiella v. Sunbelt Rentals, Inc., F. Supp. 3d, 2022 WL	
		827146, at *3 (D.N.J. Mar. 18, 2022) (same); Otsuka Pharm. Co.	
		v. Aurobindo Pharma Ltd., Civil Action No. 14-3306 (JBS/KMW),	
		2017 WL 11463663, at *4 (D.N.J. Sept. 15, 2017) (same). This	
		result might seem harsh in light of the facts here, since Plaintiff	
		submitted the belated contentions at issue only about a month	
		after the filing deadline called for by the Scheduling Order. But	
		more broadly, the United States Court of Appeals for the Third	
		Circuit has explained why it makes sense that the good cause	

#	Date	Proceeding Text	Source
*	Dute	standard (and its threshold requirement of a showing of diligence) should control, even in such circumstances: if courts allowed scheduling orders to be "disregarded without a specific showing of good cause, their utility would be severely impaired." Compagnie des Grands Hotels dAfrique S.A. v. Starwood Cap. Grp. Global I LLC, Civil Action No. 18-654-RGA, 2019 WL 4740083, at *1 (D. Del. Sept. 27, 2019) (quoting Koplove v. Ford Motor Co., 795 F.2d 15, 18 (3d Cir. 1986)); see also Faiella, 2022 WL 827146, at *3 ("[I]f a court only considers the Pennypack factors when a party obtains discovery in contravention of a scheduling order [instead of utilizing the good cause standard], a party may strategically not seek an extension of time in order to evade the scheduling order and evade the good cause standard"). Because Plaintiff has failed	Oddrec
227	06/28/2022	to show good cause, its motion is DENIED. Ordered by Judge Christopher J. Burke on 6/28/2022. (dlb) (Entered: 06/28/2022)	
227	06/28/2022	REDACTED VERSION of 220 Opening Brief in Support, by HeathCo LLC. (Brauerman, Stephen) (Entered: 06/28/2022)	
228	06/28/2022	REDACTED VERSION of 221 Opening Brief in Support, by HeathCo LLC. (Brauerman, Stephen) (Entered: 06/28/2022)	
229	06/28/2022	REDACTED VERSION of 222 Opening Brief in Support, by HeathCo LLC. (Brauerman, Stephen) (Entered: 06/28/2022)	
230	06/28/2022	REDACTED VERSION of 223 Declaration,,,,, by HeathCo LLC. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit 31, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35, # 36 Exhibit 36, # 37 Exhibit 37, # 38 Exhibit 38, # 39 Exhibit 39, # 40 Exhibit 40)(Brauerman, Stephen) (Entered: 06/28/2022)	
231	06/28/2022	REDACTED VERSION of 212 Opening Brief in Support by Vaxcel International Co., Ltd (Delcollo, Renee) (Entered: 06/28/2022)	
232	06/28/2022	REDACTED VERSION of 213 Appendix by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit 1-9)(Delcollo, Renee) (Entered: 06/28/2022)	
233	06/28/2022	REDACTED VERSION of 216 Opening Brief in Support by Vaxcel International Co., Ltd (Delcollo, Renee) (Entered: 06/28/2022)	
234	06/28/2022	REDACTED VERSION of 218 Appendix by Vaxcel International Co., Ltd (Attachments: # 1 Exhibit 1-9)(Delcollo, Renee) (Entered: 06/28/2022)	
235	07/01/2022	STIPULATION and [Proposed] Order to Stay All Pre-Trial Deadlines Pending Settlement Discussions by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 07/01/2022)	
	07/01/2022	SO ORDERED D.I. 235 Stipulation to Stay all Pre-trial Deadlines filed by Vaxcel International Co., Ltd. Ordered by Judge Christopher J. Burke on 7/1/2022. (dlb) (Entered: 07/01/2022)	
	09/07/2022	Case Reassigned to Judge Gregory B. Williams. Please include the initials of the Judge (GBW) after the case number on all documents filed. (rjb) (Entered: 09/07/2022)	
236	09/12/2022	ORAL ORDER: As this case is stayed, IT IS HEREBY ORDERED that the pretrial conference scheduled for September 29, 2022 and the jury trial scheduled to begin October 11, 2022 are CANCELLED. ORDERED by Judge Gregory B. Williams on 9/12/22. (ntl) (Entered: 09/12/2022)	

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#	Date	Proceeding Text	Source
237	09/12/2022	ORAL ORDER: IT IS HEREBY ORDERED that this matter is no longer referred to Magistrate Judge Burke. This matter has been reassigned to Judge Gregory B. Williams. ORDERED by Judge Gregory B. Williams on 9/12/22. (ntl) (Entered: 09/12/2022)	
	09/12/2022	Case no longer referred to Judge Christopher J. Burke. (ntl) (Entered: 09/12/2022)	
238	09/29/2022	STIPULATION and [Proposed] Order to Further Stay All Pre-Trial Deadlines Pending Settlement Discussions by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 09/29/2022)	
	09/30/2022	SO ORDERED, re 238 STIPULATION and [Proposed] Order to Further Stay All Pre-Trial Deadlines Pending Settlement Discussions filed by Vaxcel International Co., Ltd. Signed by Judge Gregory B. Williams on 9/30/22. (ntl) (Entered: 09/30/2022)	
239	12/01/2022	STIPULATION of Dismissal without Prejudice by Vaxcel International Co., Ltd (Mowery, Katharine) (Entered: 12/01/2022)	
	12/01/2022	CASE CLOSED (ntl) (Entered: 12/02/2022)	
240	12/02/2022	Report to the Commissioner of Patents and Trademarks. (ntl) (Entered: 12/02/2022)	

Patents

Number	Title	Issued	Class	Subclass
10,136,503	Microcontroller-based multifunctional electronic switch and lighting apparatus having the same	11/20/2018	1	1
10,187,947	Life-style LED security light	01/22/2019	1	1
10,225,902	Two-level security light with motion sensor	03/05/2019	1	1
10,491,032	Lifestyle security light	11/26/2019	1	1
10,516,292	Two-level LED security light with motion sensor	12/24/2019	1	1

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EXHIBIT 6

Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 93 of 111 PageID #:

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QUALCOMM CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY



UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

TOT POWER CONTROL, S.L.)
Plaintiff,)
v.) C.A. No. 21-1302-MN
APPLE, INC.)
Defendant.) ~)
)

CORRECTED EXPERT REPORT OF MARK J. CHANDLER

August 27, 2024 Conshohocken, Pennsylvania

Mark J. Chandler

CONFIDENTIAL – ATTORNEYS' EYES ONLY QUALCOMM CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY Case 1:21-cv-01302-MN Document 345 Filed 01/06/25 Page 94 of 111 PageID #: CONFIDENTIAL – ATTORNEYS' EYES ONLY

QUALCOMM CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY

period, as shown in **Exhibit 8**. Thus, for the damages period I conservatively conclude that the damages for Apple's infringement of the Intel-based devices amounts to

- 402. The total amount of damages for Apple's infringement amounts to
- 403. These royalties are reasonable and agreeable to both of the parties at the hypothetical negotiation for multiple reasons.
- 404. First, as I have discussed throughout my report, the royalties reflect the benefits that Apple has gained from the extent of its use of the patented technologies. The royalties are commensurate with and reflect the economic value attributable to the Patents-insuit.
- 405. Second, I am not aware of any non-infringing alternatives to the Patents-in-suit that would have been available and would have allowed Apple to meet its commercial objectives.
- 406. Finally, as described above, I understand from Dr. Larson that Apple would not have been able to sell a WCDMA standard compliant phone or meet carrier requirements if

In view of these facts, it is my opinion these facts would support an increased rate in the context of the hypothetical negotiation over the rate from the agreement in the range of rate, increasing the damages numbers above by the same percentage.

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TOT Power v. Apple

Royalties Analysis

Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	(USD) \$
Total Units Avg Royalty Per Unit (USD) Culation of Royalties Phone Tablet Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	\$
Total Units Avg Royalty Per Unit (USD) Culation of Royalties Phone Tablet Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	\$
Total Units Avg Royalty Per Unit (USD) Culation of Royalties Phone Tablet Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products Intel-based Products	\$
Total Units Avg Royalty Per Unit (USD) Collection of Royalties	\$
Total Units Avg Royalty Per Unit (USD) Culation of Royalties Phone Tablet Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products Intel-based Products	
Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	
Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	\$
Average royalty per unit (USD) average cost (FCC) Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	Watch
average cost (FCC) 3/ \$ Calculated rate Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	,, atter
Royalty base 4/ Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	
Royalty rate per device Unit Sales Qualcomm-based Products Intel-based Products	
Unit Sales Qualcomm-based Products Intel-based Products	
Qualcomm-based Products Intel-based Products	
Intel-based Products	Watch
Royalties Phone Tablet	
Royalties Phone Tablet	W 1
	Watch 7
Royalties (Qualcomm-based products) \$	
Royalties (Intel-based products) \$	

Prepared by Upstream Partners Page 1 of 2





I applied the price of the first infringed products as of the hypothetical negotiation date. For the iPhone, the iPhone 4S 16GB (without contract) was initially priced at \$649.
 To be conservative, I considered the price drop of this device to \$549 following the release of the next model.
 For the iPad, the iPad Pro 9.7 (2016), which was initially priced at \$729. To be conservative I considered the price drop of this device to \$629 following

following the release of the next model.

the release of the next model. For the Apple Watch, the Apple Watch SE was initially priced at \$329. To be conservative I considered the price drop of this device to \$299

Prepared by Upstream Partners

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EXHIBIT 7

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

TOT POWER CONTROL, S.L.	
Plaintiff,)
v.) C.A. No. 21-1302-MN
APPLE, INC.)
Defendant.)))
)

REPLY EXPERT REPORT OF MARK J. CHANDLER

October 22, 2024 Conshohocken, Pennsylvania

Mark J. Chandler

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(CSFB) as Voice over LTE (VoLTE) coverage was not fully deployed and many devices were not yet compatible. 122 See ¶ 127.

118.	
119.	I further note that the method I used to calculate the royalty that the parties would have
	agreed to at the hypothetical negotiation is reasonable and conservative, thus implicitly
	accounting for any alleged differences in rights granted under the TOT
	Solution License Agreement versus the hypothetical negotiation license. When
	calculating the royalty the parties would have agreed to at the hypothetical negotiation
	I converted the royalty in the TOT OLPC Solution License Agreement to a
	percentage based on the estimated price of a Node B and then applied that percentage
	to the average selling price of the Accused Products. However, as discussed below, the
	rate in the TOT OLPC Solution License Agreement of
	supported royalty for the Accused Products.
120.	As I explained in paragraph 394 and Exhibit 8 of my Opening Report,

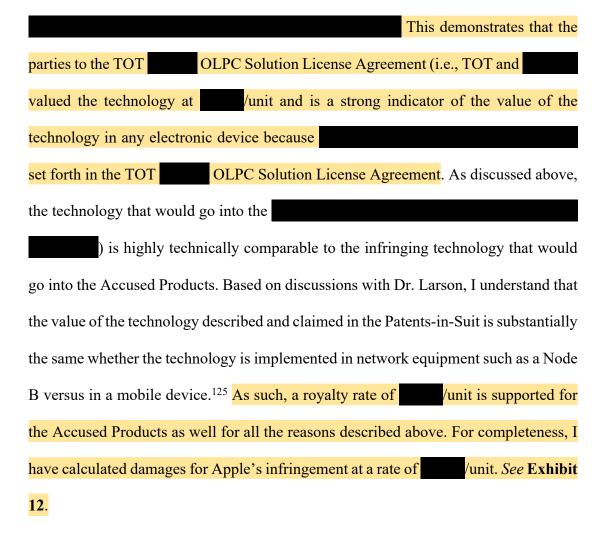
¹²² Conversation with Dr. Larson, October 21, 2024.

¹²³ Bakewell Report, ¶ 330.

¹²⁴ Opening Report, ¶ 394.

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121. While I arrive at a lower royalty rate per infringing device, this is an effort on my part to be conservative even though a rate of _____/unit is fully supported by the evidence produced in this case and, in particular, by the terms of the highly comparable TOT ______ OLPC Solution License Agreement. As stated in paragraphs 394-399 and Exhibit 8 of my Opening Report, I further whittled down the royalty rate as it applies to the Accused Products by first determining the royalty rate as a percentage of the price of a Node B (______)—an exercise not contemplated by the TOT ______ OLPC

¹²⁵ Conversation with Dr. Larson, October 21, 2024. I understand from Dr. Larson that the value of downlink power control in WCDMA systems is comparable to the value of uplink power control in WCDMA systems, and that both are critical. *Id.*

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Solution License Agreement. 126 I then applied	d that royalty rate to the accused products
which yielded royalty rates of	per Accused Product. 127 This opinion is
highly conservative as it yields a royalty rate	e per Accused Product that is
	The highest royalty using my
more conservative approach was unit f	or certain Accused Products.

B. Other Comments Made by Mr. Bakewell are Incorrect

per handset. As explained in my Opening Report, these rates are not indicative of what a handset manufacturer/implementer like Apple would pay, particularly in light of the terms of the TOT OLPC Solution License Agreement. At the hypothetical negotiation, both TOT and Apple would know all pertinent information, both present and future (i.e., the "Book of Wisdom"). Thus, TOT would know the full extent of Apple's use of the patented technology, including that Apple would use the technology in countless products for many years. TOT would also know that Apple would not be able to sell a WCDMA standard compliant phone or meet carrier requirements if

knowledge, the parties at the hypothetical negotiation would not find TOT's business

presentations informative but rather would look to the highly comparable TOT

122. Mr. Bakewell argues that I did not consider TOT's business presentations that

¹²⁶ Opening Report, ¶ 394.

¹²⁷ Opening Report, ¶ 399.

¹²⁸ Bakewell Report, ¶ 291.

¹²⁹ Opening Report, ¶ 218.

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- 131. Here, the TOT OLPC Solution License Agreement is highly comparable to the license the parties would have agreed to at the hypothetical negotiation, and thus I properly used Accused Product revenue as the royalty base.
- 132. Mr. Bakewell also questions why I did not use the price of a flip phone as the royalty base instead of a smartphone. This argument makes no sense, as none of the Accused Products are flip phones so there would be no basis to use the price of a flip phone as the royalty base. Mr. Bakewell also questions why I did not use the price of the iPhone SE, which according to Mr. Bakewell was the least expensive Accused Product sold during the damages period. My approach of using the (discounted) price of the first infringing Apple iPhone (the iPhone 4s) was reasonable and conservative. Mr. Bakewell ignores the fact that there were Accused Products sold during the damages period that were priced higher than the iPhone 4s. Further, as discussed in 120, the evidence produced in this case supports a device royalty, regardless of the cost of the device, and thus my royalty is than the supported rate of

V. EXHIBITS

133. **Exhibits 10** through **14** are attached to this report and support my damage analyses and opinions in this matter.

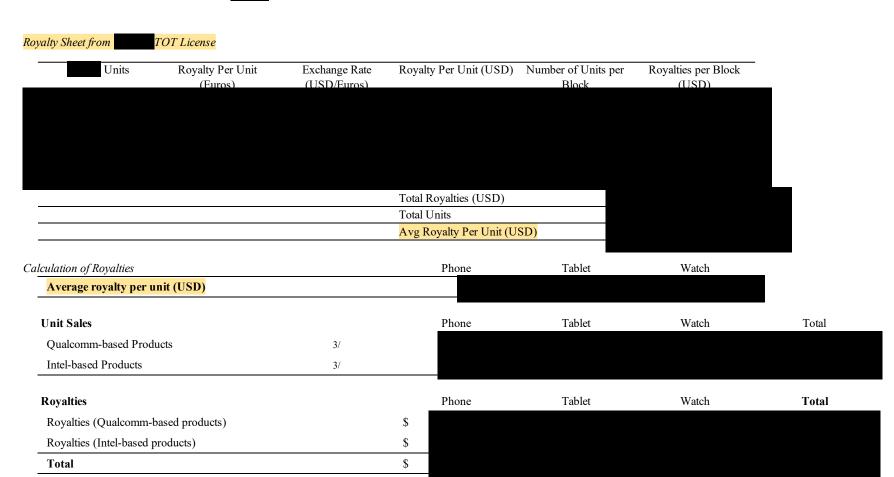
¹⁴⁸ Bakewell Report, ¶ 336.

¹⁴⁹ Bakewell Report, ¶ 336, FN 641.

¹⁵⁰ See, e.g., https://www.techradar.com/reviews/iphone-13 (iPhone 12 and 13 were \$799 at launch); https://www.apple.com/newsroom/2021/09/apple-introduces-iphone-13-and-iphone-13-mini/ (at launch, iPhone 13 was \$799 and iPhone 13 mini was \$699).

TOT Power v. Apple

Royalties Analysis - Royalty Rate of



Sources/Notes:

1/

Prepared by Upstream Partners

Page 1 of 1

^{2/} Exchange rate (USD/Euros) on effective date of License of July 27, 2012.

^{3/} See Exhibit 6A of Chandler's Opening Report, August 23, 2024.

EXHIBIT 8

	Page 1
1	UNITED STATES DISTRICT COURT
	FOR THE DISTRICT OF DELAWARE
2	
	CA No. 21-1302-MN
3	
4	
5	TOT POWER CONTROL,
6	Plaintiff
7	Vs
8	APPLE, INC.,
9	Defendant
10	
11	
	HIGHLY CONFIDENTIAL TRANSCRIPT
12	
13	
14	TRANSCRIPT of the stenographic notes of the
15	videotaped deposition in the above-entitled matter, of
16	MARK J. CHANDLER, via ZOOM, on Thursday, October 30,
17	2024, commencing at 8:01 a.m.
18	
19	
20	
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22	
23	
24	Maureen McCarthy, CRR, RMR, CRCR.
25	Court reporter.

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And I, I guess, corrected maybe an overly vague, overly broad statement that I have in my footnote. I corrected that in my reply report.

But I did my -- made efforts to determine the lowest price when a particular device was, you know, still current, not five years after the fact. And in some cases, where that price, at the time of the first sale or the time of hypothetical negotiation might have been higher.

If I saw lower prices, for example, with the Apple watch, I applied the lowest price there. So each of these efforts were to select a base price that my efforts was a conservative effort to do so. All keeping in mind that this, the is a supported rate for the use of technology in the highly comparable technology in products that communicate over a cellular communications network.

- Q. And in your reply report, you actually use the
- 19 number and multiplied that by these Apple
- 20 device prices to get to
- ; correct?

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- 22 A. That's broadly correct. I don't recall the
- exact number, but that's the exercise that I
- conducted in that scenario.
- Q. You didn't include that scenario in your

Page 163 1 opening report; right? 2 Α. That's correct. I didn't include the 3 scenarios outlined in 13 and 14 of my opening 4 report. 5 I understand, with respect to certain 0. 6 scenarios, 13 and 14, perhaps the reason you didn't 7 include that is you hadn't yet seen Mr. Bakewell's 8 analysis; right? 9 Α. Absolutely. Those are in response to Mr. 10 Bakewell's analysis. I wanted to see what he put forth in his rebuttal. 11 12 But in the opening report, when you have this Q. 13 -- I think it's Exhibit 12 to your reply report, 14 where you get to number. That's not 15 in response to anything specific that Mr. Bakewell 16 said. 17 That's a calculation you could have performed 18 in connection with your opening report, but you did 19 not; correct? 20 This is prepared, you know, in my view, Α. 21 because I feel strongly that is a supported 22 rate, as I've stated throughout my reports, and that 23 scenario, in my opinion, warranted explanation --24 exploration and documentation in response to many 25 and all of the comments Mr. Bakewell made.

Page 164 My question is a simple one. You could have 1 0. 2 done this calculation included with your opening 3 report; correct? I could have done calculations to Exhibit 13 4 Α. 5 and 14 as well, but I did not. I chosen it here, after reading Mr. Bakewell's rebuttal report to my 6 7 opening report. So Exhibit 13, you're responding to -- Exhibit Ο. 13 is your reply report. You're responding to Mr. 10 Bakewell's analysis regarding -- and this is public 11 information, of course, but analysis about the 3G 12 shut-off; correct? 13 Α. I wouldn't say analysis, but comments on the 3G cut-off, yes. 14 Exhibit 14, you're responding to Mr. Ο. Bakewell's comments regarding the fact that two of

- 15
- 16
- 17 the major carriers were operating on CDMA 2000,
- 18 which is incompatible with the patented technology;
- 19 correct?

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9

- 20 That's correct. Α.
- 21 Ο. Exhibit 12. Which specific comments of Mr.
- 22 Bakewell are you responding to?
- 23 I believe I gave you that answer four or five Α.
- 24 questions ago. I prepared this after reading the
- 25 body of Mr. Bakewell's report, and he's -- I've been

Page 172 outlined and calculated per device type 1 Q. What's the opinion that you believe the 3 appropriate royalties damages to be awarded? 4 I think both calculations are accurate and Α. 5 thorough. They're both supported for all the reasons I've outlined. They're both fair and robust 6 7 and reasonable calculations. 8 You could have disclosed your opinion in Q. 9 Exhibit 12 in your opening report, but you did not. 10 That's correct. Isn't it? That's not 11 controversial? 12 That is correct. I do believe that I referred Α. 13 as a supported royalty rate. 14 MR. STRAPP: Let's go off the record two 15 minutes. 16 THE VIDEOGRAPHER: Going off the video record. 17 The time is 2:08 p.m. 18 (Recess.) 19 THE VIDEOGRAPHER: Back on the video record. 2.0 The time is 2:15 p.m. This begins media 6. 21 BY MR. STRAPP: 2.2 I want to go back to the license, O. 23 Exhibit 3. I want to specifically ask you about the 24 term of this license. Turn to section 7. Page nine 25 of the agreement. There's a provision that says:

	Page 245
1	CERTIFICATE.
2	
3	
4	
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6	
7	I certify that the foregoing is a
8	
9	correct transcript from the record of the
10	
11	proceedings in the above-entitled matter.
12	
13	Maurier Manty
14	
15	Maureen McCarthy
16	
17	Maureen McCarthy, CRR, RMR, CRC
18	
19	Court Reporter
20	
21	
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25	

CERTIFICATE OF SERVICE

I, Brian A. Biggs, hereby certify that on this 23rd day of December, 2024, a copy of:

DEFENDANT'S MOTION TO STRIKE UNTIMELY EXPERT OPINIONS OF

LAWRENCE E. LARSON AND MARK CHANDLER was served upon the following counsel

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